HOUSE OF COMMONS

Second Session—Twenty-second Parliament

1955

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 10

BILL 449

An Act to amend the Transport Act

TUESDAY, JUNE 28, 1955

WITNESSES:

Mr. John A. D. Magee, Executive Secretary, Canadian Trucking Associations; Mr. Hugh E. O'Donnell, Q.C., Counsel, Canadian Railways Company; Mr. John L. O'Brien, Q.C., Counsel, Canadian Pacific Railway Company; Mr. D. H. Jones, Counsel, Great Northern Railway Company; Mr. H. E. B. Coyne, Q.C., Counsel, Irish Shipping Limited and Saguenay Terminals Limited.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1955

59664—1

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCulloch, Esq.,

and

Messrs.

Barnett
Batten
Bonnier
Boucher (*Chateauguay-Huntingdon-Laprairie*)
Buchanan
Byrne
Campbell
Carrick
Carter
Cauchon
Cavers
Clark
Deschatelets
Dupuis
Ellis
Follwell
Fulton
Gagnon
Gauthier (*Lac-Saint-Jean*)
Goode
Gourd (*Chapleau*)
Green
Habel
Hahn
Hamilton (*Notre-Dame-de-Grace*)
Hamilton (*York West*)
Hanna
Harrison
Hansell
Healy
Herridge
Holowach
Hosking
Howe (*Wellington-Huron*)
James
Johnston (*Bow River*)
Kickham
Lafontaine
Langlois (*Gaspe*)
Lavigne
McIvor
Meunier
Montgomery
Murphy (*Lambton West*)
Murphy (*Westmorland*)
Nesbitt
Nicholson
Nickle
Nixon
Nowlan
Purdy
Ross
Small
Stanton
Viau
Villeneuve
Vincent
Weselak

E. W. Innes,
Clerk of the Committee.

ORDER OF REFERENCE

WEDNESDAY, June 22, 1955.

Ordered,—That the following Bill be referred to the said Committee:

Bill No. 449, An Act to amend the Transport Act.

THURSDAY, June 23, 1955.

Ordered: That the name of Mr. Carrick be substituted for that of Mr. MacNaught; and

That the name of Mr. James be substituted for that of Mr. Balcom; and

That the name of Mr. Cavers be substituted for that of Mr. McWilliam; and

That the name of Mr. Hansell be substituted for that of Mr. Leboe on the said Committee.

TUESDAY, June 28, 1955.

Ordered,—That the name of Mr. Cameron (*Nanaimo*) be substituted for that of Mr. Campbell on the said Committee.

Attest.

LEON J. RAYMOND,
Clerk of the House.

59664—1½

MINUTES OF PROCEEDINGS

TUESDAY, June 28, 1955.

The Standing Committee on Railways, Canals and Telegraph Lines met at 11.30 o'clock a.m. this day. The Chairman, Mr. H. B. McCulloch, presided.

Members present: Messrs. Barnett, Batten, Bonnier, Byrne, Cameron (*Nanaimo*), Carrick, Carter, Cavers, Deschatelets, Gourd (*Chapleau*), Green, Habel, Hahn, Hamilton (*Notre-Dame-de-Grace*), Hamilton (*York West*), Harrison, Hansell, Healy, Herridge, Hosking, Howe (*Wellington-Huron*), Kickham, Lafontaine, Langlois (*Gaspe*), Lavigne, McCulloch (*Pictou*), Montgomery, Murphy (*Lambton West*), Nicholson, Purdy, and Stanton.

In attendance: *For the Department of Transport*: Honourable George C. Marler, Minister of Transport; Mr. F. T. Collins, Comptroller and Secretary, and Mr. G. A. Scott, Director of Economics.

For Canadian Trucking Association Inc.: Mr. John A. D. Magee, Executive Secretary, and Mr. William C. Norris, President, both of the Canadian Trucking Associations; Mr. Camille Archambault, Chairman, Agreed Charges Committee; Mr. J. O. Goodman, General Secretary, Automotive Transport Association of Ontario.

For the Province of Manitoba: Mr. C. D. Shepard, Q.C., Counsel, and with him Mr. V. M. Stechishin, Manager, Manitoba Transportation Commission.

For the Canadian National Railways Company: Mr. Hugh E. O'Donnell, Q.C., Counsel and Mr. A. H. Hart.

For the Canadian Pacific Railway Company: Mr. John L. O'Brien, Q.C., Counsel, and Mr. Gordon Miller.

For the Great Northern Railway Company: Mr. D. H. Jones, Counsel.

For the Canada Steamship Lines Ltd.: Mr. D. K. MacTavish, Q.C., Counsel, and Mr. R. S. Paquin, Assistant Freight Traffic Manager.

For Irish Shipping Limited and for Saguenay Terminals Limited: Mr. H. E. B. Coyne, Q.C., Counsel and Mr. Jean Brisset Q.C., Counsel.

The Committee proceeded to the consideration of Bill No. 449, An Act to amend the Transport Act.

On motion of Mr. Lafontaine,

Resolved,—That the Committee print 750 copies in English and 250 copies in French of its proceedings in respect of Bill No. 449.

Mr. Magee, on behalf of Canada Trucking Associations, began the reading of a prepared submission on agreed charges.

At 1.10 o'clock p.m., the Committee adjourned until 2.30 o'clock p.m. this day.

AFTERNOON SITTING

The Committee resumed at 2.30 o'clock p.m., the Chairman, Mr. H. B. McCulloch, presiding.

Members present: Messrs. Barnett, Batten, Bonnier, Byrne, Cameron (*Nanaimo*), Carrick, Carter, Cavers, Deschatelets, Ellis, Gauthier (*Lac-Saint-Jean*), Gourd (*Chapleau*), Green, Habel, Hahn, Hamilton (*York West*),

Harrison, Hansell, Healy, Herridge, Hosking, Howe (*Wellington-Huron*), James, Kickham, Lafontaine, Langlois (*Gaspe*), Lavigne, McCulloch (*Pictou*), McIvor, Meunier, Montgomery, Nicholson, Purdy, Ross, Stanton, Viau, and Villeneuve.

In attendance: Same as at morning sitting.

Mr. Magee completed the presentation of the submission of the Canadian Trucking Associations; he was questioned thereon and retired.

On motion of Mr. Hahn,

Resolved,—That the Appendices to the submission of the Canadian Trucking Association be incorporated in the record. (*See Appendices to this day's evidence*).

Mr. Hugh O'Donnell explained the position of the Canadian National Railways Company on the question of agreed charges; he was questioned thereon and retired.

At 5.50 o'clock p.m., the Committee adjourned until 8.00 o'clock p.m. this day.

EVENING SITTING

The Committee resumed at 8.00 o'clock p.m., the Chairman, Mr. H. B. McCulloch, presiding.

Members present: Messrs. Barnett, Bonnier, Byrne, Cameron (*Nanaimo*), Carrick, Carter, Cavers, Deschatelets, Gauthier (*Lac-Saint-Jean*), Gourd (*Chapleau*), Green, Habel, Hahn, Hansell, Healy, Herridge, Hosking, Howe (*Wellington-Huron*), James, Kickham, Lafontaine, Langlois (*Gaspe*), Lavigne, McCulloch (*Pictou*), McIvor, Meunier, Montgomery, Nicholson, Small, Stanton, Villeneuve, and Weselak.

In attendance: Same as at morning sitting.

Mr. O'Brien outlined the opinions of the Canadian Pacific Railway Company with respect to agreed charges; he was questioned thereon and retired.

Mr. O'Donnell was recalled, questioned briefly and retired.

Mr. Jones presented the position of the Great Northern Railway Company on Bill 449; he was questioned and retired.

Mr. Coyne, on behalf of Irish Shipping Limited and Saguenay Terminals Limited, began submission of argument concerning the bill under study.

At 9.50 o'clock p.m., the Committee adjourned until 11.30 o'clock a.m. Wednesday, June 29.

E. W. Innes,
Clerk of the Committee.

EVIDENCE

JUNE 28, 1955.
11.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. We have for consideration Bill No. 449, an Act to amend the Transport Act. The Minister of Transport and his parliamentary assistant together with Mr. Scott of the Department of Transport are here to assist us in consideration of this legislation. Perhaps the minister wishes to say something. However, we will require a motion for printing.

Mr. LAFONTAINE: I will move, Mr. Chairman, that we print 750 copies in English and 250 copies in French of the proceeding relating to Bill 449.

The CHAIRMAN: All in favour?

Carried.

Hon. Mr. MARLER: You asked me, Mr. Chairman, if I had anything to say in connection with this bill, and I think that perhaps the only useful thing I could say to the committee in connection with it, is that I moved that the bill be referred to this standing committee so that associations such as the Canadian Trucking Associations and one or two other interests which are interested in the provisions of this bill could have the opportunity to appear before the committee and to make representations concerning the bill. I do not think any useful purpose would be served by my repeating what I said in the House with regard to the purposes of the bill. I think the committee would make more progress if, perhaps, we were to ask the representatives of the Canadian Trucking Associations if they would make such representations as they think appropriate.

Mr. CAVERS: Mr. Chairman and gentlemen, we have here today representing the Canadian Trucking Associations Mr. John Magee, the executive secretary; Mr. William C. Norris president of that association; Mr. Camille Archambault, chairman of the agreed charge committee and Mr. Goodman, general manager of the Automotive Transport Association of Ontario. I believe that Mr. Magee would like to make a representation to the committee.

Mr John Magee, Executive Secretary, Canadian Trucking Associations, Incorporated, called:

The WITNESS: Shall I proceed, sir?

The CHAIRMAN: Yes.

The WITNESS: Mr. Chairman, Mr. Minister and honourable members of the committee—

Mr. GREEN: We will not be able to hear you over here.

The WITNESS: I will try to speak louder, Mr. Chairman.

Mr. Chairman, Mr. Minister and honourable members of the committee, the Canadian Trucking Associations, the group which is here today, is led by the chairman of the board and our president, Mr. William C. Norris. Associated with me in the presentation of the submission I am about to make—it would be

desirable if all the members of the committee were to have a copy of the submission, Mr. Chairman. This is a rather formidable looking document, but it will take us approximately two hours and I hope no longer to present it.

Mr. HAMILTON (*York West*): Does the witness have copies of the report for distribution?

Mr. BARNETT: Are there copies of this submission available for the members of the committee?

Mr. CAVERS: I have not seen anything yet.

The WITNESS: We have copies here, Mr. Chairman.

Mr. BARNETT: I understand that some members have copies; I for one have not.

The WITNESS: With your permission copies will now be distributed.

Mr. Chairman, associated with me in the presentation of the submission I am about to make are two trucking associations officials who accompany me, Mr. Camille Archambault, director of Canadian Trucking Associations, the chairman of our agreed charge committee, and the assistant to the president and director of public relations of the Trucking Association of Quebec; and Mr. J. O. Goodman, an honourary life member of our board of directors, a member of our agreed charge committee and the general manager of the Automotive Transport Association of Ontario.

I might explain by way of introduction, Mr. Chairman, that the Canadian Trucking Associations Incorporated is the national federation of all of the provincial trucking associations in Canada: the Automotive Transport Association of B.C., the Alberta Motor Transport Association, the Saskatchewan Motor Transport Association, the Manitoba Trucking Association, the Automotive Transport Association of Ontario, the Trucking Association of Quebec, and the Maritime Motor Transport Association. All those associations are represented in the submission of this brief.

The membership of the seven provincial trucking associations which I have named, Mr. Chairman, approximates 7,000 trucking companies.

Canadian Trucking Associations appreciates the opportunity of placing before this committee its submission in respect to Bill 449. This legislation is almost identical to the draft legislation proposed on pages 47 and 48 of the 1955 report of the Royal Commission on Agreed Charges. The report, tabled in the House of Commons on March 23, was carefully studied by the association. On March 31, our president, Mr. William C. Norris, addressed a letter to the Minister of Transport on the subject. This letter, which appears with this submission as Appendix A, stated in part as follows:

"The railways are important to Canada and we are the first to admit it. Their welfare is a consideration which must be a paramount concern of the federal government. But it is not the only consideration. Canadian highway transport services are an indispensable component of our transportation system. They are essential to agriculture, business, industry, and to national defence. These essential highway transport services are now threatened by the unprecedented crisis of the Royal Commission recommendations. With all the force at my command, I respectfully sound the warning to you, and to your Cabinet colleagues, that the trucking industry, as we know it today, is endangered as never before by the recommendations of this commission."

The government has decided to proceed with the implementation of the commission's recommendations. In reaching its decision, the government has apparently decided that the royal commission was right when it said that the railways needed the legislation and that it was also right when it said that the trucking industry would not be caused vital damage by the legislation.

Certainly the trucking industry is going to suffer some damage as a result of the freer agreed charge rate-making permitted in the legislation

before this committee. Agreed charge rate-making is a competitive device directed against the trucking industry. It would not be fulfilling its function if it did not freeze the trucking industry out of the movement of freight traffic normally available to rail and truck carriers.

The question is the degree of damage which the trucking industry will suffer and the point at which the damage ceases to be merely the competitive misfortune of an individual truck operator and develops into decimation of whole segments of the industry.

Any number of shippers—among them, Canada's largest industries—could be persuaded to come before this committee to explain in detail why it is impossible for them to undertake their freight transportation exclusively by rail. This being the case, it would become a matter of concern to the public generally if the impact of an agreed charge onslaught by the railways on trucking operations between cities drastically curtailed, or eliminated, highway freight services.

One could hardly accuse the Royal Commission on Transportation, headed by Hon. W. F. A. Turgeon, of being concerned with the position of the trucking industry from any standpoint but the public interest. That commission, at page 94 of its report of February 9, 1951, stated as follows:

> The agreed charge if widely used could bind shippers to the railways for unrestricted periods of time by an agreement which would exclude the trucks from participating in the traffic of such shippers.
>
> This might prevent the growth of a form of transport which may be of great value to the commerce of the country. Two instances of the value of the trucks to Canada have occurred in recent years, the first during the last war, and the second during the recent railway strike. Any weapon which might seriously endanger or bring about the elimination of the trucking industry must be guarded with close restrictions.
>
> It is to be borne in mind that although their rates are regulated, considerable freedom is left to the railways in regard to competitive rates, and this freedom should not be impaired substantially. The object is to permit the railways to meet competition, not to destroy or eliminate it.

Agreed charges came into effect in the Transport Act, 1938, as a means of enabling the railroads to deal with the "unregulated" competition of trucking. The language of the Royal Commission on Transportation, in describing the agreed charge rate-making weapon, may be more appropriately used here than any assessment which Canadian Trucking Associations might contribute. The royal commission stated, at pages 94 and 95 of the 1951 report:

> The agreed charge method of rate making, even under the present practice, is contrary to well established principles of rate making under the Railway Act. It binds the shipper by agreement to ship all or an agreed portion of his goods by the carriers with whom he makes the agreement for a long period, usually for at least a year, and it gives the shipper a rate lower than the rate in the tariffs published under the Railway Act. This extraordinary procedure should be accompanied by the publicity and safeguards now required by the Transport Act. It must be remembered that the Railway Act now gives to the railways power to meet competition by the publication of competitive tariffs with a minimum of delay. The Transport Act adds to this power and empowers the railways to enter into agreed charges where the publication of competitive tariffs or special tariffs will not secure the object of the agreed charge. Such a power should not be exercised without close supervision. The procedure should not be simplified.

Canadian Trucking Associations has grave misgivings about the impact on the trucking industry of the legislation now before this committee. These misgivings are based not only on our own assessment of what can happen but on the considered views of the Turgeon Royal Commission on Transportation which warned in 1951, against almost identical legislation to that now before the committee.

Notwithstanding these misgivings, we do not intend to attack the principle of the recommendations of the Royal Commission on Agreed Charges. The underlying principle, as we understand it, is, as stated on page 36 of the report, that: " . . . I take the view that the object to be attained, as nearly as possible, is to set the railways free, but with the safeguard of certain precautions intended to preserve the rights of other interested parties."

Although we do not intend to attack the principle of the commission's recommendations, we are not able to agree with certain findings of the commission which underly the recommendations. These findings are:

1. The commission stated that there was "relative freedom from regulation" of highway transport by the provinces. This finding is difficult to understand. In addition to vehicle size, weight, and safety regulations, most of the trucking industry, like the railroads, is controlled in respect to routes on which it may operate and much of the industry is subject to rate control. A detailed examination of control and regulation of the industry is provided in Part II (pages 8 to 13, inclusive) of this submission.

2. The Royal Commission on Agreed Charges referred to high transport escaping the regulatory strait-jacket and reported that present regulation puts the railroads in an unfair position because it binds them almost as closely as it did in time of their monopoly. Again, this finding is difficult for us to understand. The evidence before the commission showed that the railroads' freedom to compete with the trucking industry is such that they can make competitive rates on the telephone. The shipper may actually receive competitive rates from the railways before the Board of Transport Commissioners knows anything about them.

Nor can there be any doubt that the railroads are free to deal, service-wise, with the competition of the trucking industry—and truck service, according to railroad studies, is their main competitive problem.

Control and regulation of the railroads in respect to competition is examined in Part III (pages 14 to 37, inclusive) of this submission.

3. The Royal Commission on Agreed Charges reported that the railways are in a "very adverse" financial condition and held the competition of the trucking industry to be at the root of this condition. Our analysis of the relevant statistics has convinced us that the commission accepted, in error, the railways' contention that the trucking industry was at the root of their financial problem. The decline in railroad tonnage has occurred almost entirely in the non-competitive sectors of their traffic. An examination of railroad traffic statistics is made in Part IV (pages 28 to 47, inclusive) of this submission.

4. The Royal Commission on Agreed Charges reported that the trucking industry was a prosperous industry—"more prosperous than the railway industry". This important conclusion undoubtedly conditioned the commission's outlook in deciding to break away from the 1951 Turgeon Royal Commission's warning against, and rejection of, legislation which, in substance, is now before this committee. From the trucking standpoint, the basis for examination of truck prosperity was the Dominion Bureau of Statistics Motor Carrier report for 1951. The report, which at the time of the hearings contained the latest information on the subject, was filed with the commission as an exhibit by Canadian Trucking Associations. We were not asked for

any analysis of the prosperity of the trucking and railway industries and we contributed none. Perhaps we should have anticipated that the question would be considered by the commission even if it was not discussed at the hearings. In any case, the evidence, according to our analysis, was that the railroads were more prosperous than the trucking industry and consequently that the trucking industry's ability to withstand an agreed charge onslaught was in question. The 1952 Motor Carrier report, released after the commission's hearings had ended, contains the latest available information and, compared with the railroad statistics, likewise shows that the railroads were more prosperous than the trucking industry.

The financial position of the trucking industry as compared with the railroads is examined in Part V (pages 48 to 56, inclusive) of this submission.

5. The Royal Commission on Agreed Charges reported that the legislation it recommended, now before this committee, cannot cause the trucking industry vital damage. In face of the grave warning in the 1951 report of the Royal Commission on Transportation and on the basis of evidence given by the railways to the Royal Commission on Agreed Charges we must respectfully disagree with this conclusion. It is our considered opinion that great damage will be done to the trucking industry. This question is examined in Part VI of our submission.

We submit that without violating the principle of setting the railroads free in regard to agreed charge ratemaking, the legislation before you should be amended to provide—and I am quoting from the 1955 Royal Commission report—"the safeguard of certain precautions intended to preserve the rights of other interested parties." Since it has been considered necessary that the water carriers—competitors of the railroads and of the trucking industry—be safeguarded with certain precautions in the legislation before you, we submit that it is basic to just and equitable treatment of our industry that the safeguard which you are going to give to the water carriers be given likewise to truck carriers.

We will submit an amendment by which this safeguard of certain precautions may be extended to the trucking industry. The amendment we propose is dealt with in Part VII (pages 66 to 74, inclusive) of this submission.

PART II

THE REGULATED TRUCKING INDUSTRY

The announced reason of the government in introducing the agreed charge legislation in 1938 was to put the railroads in a position to deal with the "unregulated" competition of the trucking industry. In the intervening period of sixteen years, a vast change has taken place in the regulatory position of the railroads' trucking competitors. The reasoning regarding "unregulated" trucking in 1938 has little if any, relationship to conditions today.

It is true that the trucking industry remains unregulated, except with regard to size, weight, and safety of the vehicles operated, in five of the provinces—Alberta, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland. These five provinces account for a total of 7 per cent of the Canadian trucking industry's gross revenues, according to the Motor Carrier report of the Dominion Bureau of Statistics. In the provinces in which 93 per cent of the trucking industry's revenue is earned—Quebec, Ontario, Manitoba, Saskatchewan, and British Columbia—the industry operates within a complete regulatory framework, one that goes far beyond the questions of size, weight, and safety.

Allowing for the differences in operating characteristics of rail and truck transportation, control and regulation of the trucking industry in these provinces

in which it earns 93 per cent of its revenue bears a close resemblance to current railroad regulation in Canada. The main features of this regulation are the manner in which entry into the trucking field is controlled by provincial transport boards on the basis of public need (in the same way that the railroads, to obtain permission to extend a line, or build a new one, must prove to the Transport Board that there is public need for it); and (2) control of trucking rates. We have provided the committee with a summary of the main aspects of provincial truck control in appendix B of this submission.

Truck operators in Quebec, Ontario, Manitoba, Saskatchewan, and British Columbia, are controlled in respect to the routes on which they may operate. To start a new trucking operation or extend an existing one, the operator is required to appear before the provincial transport board to prove that there is public need for the service. Unless this need is proven, the new or extended trucking operation may not commence. This has not tended to create monopolies, as the existence of 15,000 highway trucking firms eloquently testifies. A majority of applications for extensions of permits or for new permits for a new operator have been granted.

Such rejections as have been made by the provincial transport boards have reduced the number of fly-by-night operators who are lured to attach themselves to our industry because of the ease of entry with a small capital outlay. We are competing with a railroad industry composed, in Canada, of two very large operators and a few smaller ones, and certainly it may be said that "here today, gone tomorrow" methods of operating and dealing with shippers are not characteristic of these railroads. Therefore, it is a competitive necessity with the trucking industry, in order to maintain good relations with shippers, to exclude fly-by-night operators. The stability and good name of the trucking industry has been enhanced by the regulation of the two central provinces, Manitoba, Saskatchewan, and British Columbia. Shippers have been protected from unsavoury business experiences.

Control of trucking rates has long been a feature of regulation of the industry in Quebec, Manitoba, Saskatchewan, and British Columbia. In Quebec and British Columbia, the rates are filed with provincial regulatory bodies in much the same way as railroad rates are filed with the Board of Transport Commissioners. In Manitoba and Saskatchewan the truck rates are fixed by the provincial regulatory bodies and those are the rates truck operators must charge. In all four provinces there is a duplication of the procedure available to shippers to protest railroad rates to the Board of Transport Commissioners if the rates are considered to be discriminative or unduly high. Provision exists for the same type of protest to be filed by shippers with provincial transport boards which regulate truck rates. The boards may order public hearings in respect to proposed truck rate increases and there have been such hearings since World War II.

The practice of regulation of truck operations in Ontario differs in form from that of Quebec, Manitoba, Saskatchewan and British Columbia. Applications for trucking permits in Ontario have been handled at hearings of the Ontario Municipal Board which makes recommendations regarding the granting of operating permits to the Ontario Department of Highways. The department in Ontario is the regulatory agency. Ontario, in this respect, has differed from Quebec, Manitoba, Saskatchewan, and British Columbia where the regulation is carried out directly by provincial transport boards. However, although up until the present time trucking rates have not been regulated in Ontario, a reorganization is now taking place and the hearing of applications for operating permits will soon be undertaken by a new Ontario Highway Transport Board which is being established specifically to deal with the

trucking industry. The Municipal Board will no longer carry this responsibility. The Ontario Highway Transport Board Act provides that the board may regulate the rates charged by trucking companies and it may be that the board, which is to be provided with an adequate staff, will ultimately commence the regulation of the Ontario trucking industry's rates.

The statement at page 24 of the 1955 royal commission report that highway transport's relative freedom from regulation is a characteristic of the industry today is certainly not in accord with the facts. It is very difficult to understand the purpose served by the statement, particularly since it is immediately followed by an informative paragraph which says:

> At the present time, rate and route regulation exist over intra-provincial traffic in the provinces of Manitoba, Saskatchewan, British Columbia and Quebec but not in Alberta and the Maritime Provinces. Ontario regulates the routes over which truckers may operate but does not regulate the rates charged.

Since it is in these provinces that 93 per cent of the trucking industry's gross revenue is earned, the "relative freedom from regulation" of highway transport is, we respectfully submit, incorrect. It is fortunate that this is so in the tucking industry's view. We advocate and support provincial regulation of our industry. When the royal commission says, as it does on page 24 of its report, that "a comprehensive and effective regulation of (trucking) rates (is) a practical impossibility" it is denying, in effect, what has actually been achieved by four provinces which account for a very substantial portion of the trucking industry's revenues. This regulation is no mean achievement, bearing in mind that the federal Government, with the undoubted headaches of railroad regulation, is required to regulate some 30 railroads in comparison with the provincial regulatory problem presented by the existence of 15,000 'for hire' trucking operations.

How far removed was the royal commission from the trend towards regulation of the trucking industry and truck rates is seen in introduction, this year, by the government of New Brunswick, of a revised Motor Carrier Act providing for control and regulation of trucking industry routes and rates in that province. The complete bill which will authorize this control is included as appendix C of this submission.

It will be seen upon examination of this legislation that in determining whether a licence is to be issued to a truck operator the provincial transport board shall consider whether existing truck service is adequate to present and future demands; and the financial ability, fitness and willingness of the applicant to furnish adequate service.

The proposed New Brunswick legislation states:

> In issuing any licence, or approving the transfer of a licence, the board may prescribe the routes which may be followed or the areas to be served and may attach to the licence such conditions as the board may consider necessary or desirable in the public interest, and without limiting the generality of the foregoing, the board may impose conditions respecting schedules, places of call, carriage of freight, and insurance.

In regard to rate regulation of New Brunswick truck operators, it will be noted that the legislation provides that the Lieutenant Governor in Council, on the recommendation of the provincial transport board, may make regulations respecting tariffs and tolls and the disallowance or suspension of any tariff or toll. The manner and extent to which tariffs and tolls shall apply to any truck operator may also be subject to regulation by the board.

This legislation was tabled to expedite a pre-Easter prorogation of the New Brunswick legislature. It is strongly supported by CTA's member organization, the Maritime Motor Transport Association, and its ultimate enactment is expected to have far-reaching effect in bringing order out of chaos in the unregulated New Brunswick trucking industry of today. We understand that provincial authorities in Nova Scotia and Prince Edward Island are keenly interested in the New Brunswick legislation, seeing in it a pattern for improved legislation in their own provinces.

PART III

OUR "SHACKLED" RAILROADS?

During the past two years we have experienced, in Canada, a steadily intensified propaganda campaign by the railroads to convince the public that in regard to meeting truck competition, they are under severe regulatory restrictions, so much so that they are competing with the trucks almost, as it were, with one hand tied behind their backs.

Typical of the comment made in the course of this campaign is the following extract from the address of Donald Gordon, chairman and president of the Canadian National Railways, delivered to the Vancouver Board of Trade on August 31st, 1953:

> The regulations which surround the making of competitive rates are worthy of particular attention, because in my view the way in which business organizations react to competition is a good test of their vitality and survival power. I am thinking of the speed with which they move, their resourcefulness in bringing new ideas to bear, the flexibility of their procedures, and all those things that are involved in adapting to a changing environment. But if this is a fair test, then the independent observer who studies the Railway Act is not likely to be greatly impressed with the future prospects of the railway industry.

One has only to read the editorial fulminations of such newspapers as the Montreal *Gazette* to appreciate how this railway propaganda has "caught on". Take, for example, that newspaper's editorial of May 25, 1955, entitled: "It Is Long Overdue." The editorial is a lengthy one but the crux of it is contained in the following conclusions:

> It is important that Canadians should get the best value they can for the dollar they spend for transportation. The trouble is, they are not getting that value. And they will never get it unless the different means of transport in Canada are made really competitive with one another. Only full competition will give the best service at the best price.
>
> At the present time, to be sure, there is competition. But the basic means of transportation—the railways—are not being permitted to show what they can do against other means of transport. Ponderous and slow government regulation delays or prohibits their decisions.
>
> As the result, the railways are forced into a condition of more or less chronic economic difficulty, while not being free to render the service that would otherwise be possible. By regulating the railways so severely the public interest is not being fully served: it is, on the contrary, being largely frustrated.
>
> . . . The railways are being hard pressed by trucks, by shipping, by air services, by pipelines. And yet, while these other means of transport may be relatively free from regulation, the railways have to work under a network of entangling restrictions.

> What is the result? Ironically enough, while supposedly trying to protect the shipper and the consumer, these government regulations work, on the whole, against their best interests. This happens because the railways, as the basic carriers, have to face their competitors with one hand tied behind their backs. They cannot offer the public the really competitive services that would be most in the public interest.

The *Gazette* goes on to buttress its comment with the following quotation from an address of Mr. Norris R. Crump, president of the Canadian Pacific Railway. The editorial states:

> Mr. N. R. Crump, the president of the Canadian Pacific Railway, has put it this way: "What we need in the railway industry is more freedom and less regulation. It is true because transportation has become highly competitive business. Regulation which ignores the basic economic facts will in the end adversely affect the general economy and the national interest.

What about these fetters, these tangling restrictions on the railways' ability to meet competition?

The fact is that until the now-famous Montreal-Toronto rate cuts of September, 1954, the vast majority of Canadians were unaware that the railroads, supposedly fettered by unrealistic federal legislation, have been busy with an aggressive, highly flexible price war waged all along the freight rate front against the trucking industry. On the other side of the firing line, many truck operators have engaged in this rate war either on their own initiative, without provocation from the railroads, or because they have been forced into it by rail rate cuts. The fact to be considered by this committee, in our respectful submission, is that such a rate war has been going on, that the railroads have been free to conduct it, that they have done so with the acquiesence, if not the blessing, of the Board of Transport Commissioners. The managerial discretion of the railroads to act in accordance with the principles of the competitive free-enterprise system has been given full rein.

The Transport Board, as we are about to demonstrate to this committee, has proved to be no roadblock to the railroads' rate-slashing wherever and whenever railroad management chose to make these slashes. In saying this we are not criticising the Transport Board but are merely bringing out the facts. The rate war has raged along a broad front that has embraced every form of competitive rate-making, including agreed charges.

If the railroads were in a regulatory strait-jacket which restricted them to agreed charge rate-making as a means of meeting truck competition, they would be entitled to a sympathetic reception of their long-term campaign to instal a system of wide-open agreed charge rate-making. But no such regulatory strait-jacket exists in respect to Canadian rail transportation.

What is the real picture?

Following World War II, the railroads, on the basis of heavily increased operating costs—a cycle from which no industry, including trucking, escaped—applied for a series of freight rate increases.

When the fight for freight rate increases opened in 1947, the railroads found themselves unexpectedly backed against the wall by the united opposition of seven provinces—the west and the maritimes. It became clear that the fight would be long and bitter.

The rail-truck freight rate picture retained something of its war-time stability during the initial stages of the fight for freight rate increases. The railroads removed many ridiculously low rates made to meet motor truck competition in Ontario and Quebec. These rates were a throw-back to competitive rate warfare of the lean traffic years of the late 1930's. They became "frozen" in the freight rate structure when Wartime Prices and Trade Board

control was instituted in 1942 and remained there until control was removed in September, 1947. The railroads' anxiety to get these low rates out of the freight rate structure was the result of their sensitivity to the oft-repeated contention of the western and maritime provinces that the existence of intensive trucking operations in Ontario and Quebec made it impossible to apply horizontal rail rate increase in full in those two provinces. Horizontal freight rate increases would thus fall much more heavily on the western and maritime provinces, according to the contention of their counsel.

Coinciding with the railroads' problems in obtaining increased rates, trucking costs were rising all along the line. Needed rate increases in the trucking industry were stalled as the operators waited for the senior rates—the railway freight rate umbrella—to rise. The umbrella rose on three different occasions —in April, 1948, when a 21 per cent railroad freight rate increase was granted by the Transport Board; in June, 1950, when a 20 per cent increase was granted; and in February, 1952, when a 17 per cent increase was granted. In varying degree, the trucking industry, unless prevented by provincial rate regulation, followed these increases with trucking rate increases. Trucking rate increases were implemented in all provinces but some provincial transport boards held them below the rail rate increases.

There was an initial period during the fight over freight rate increases, in which the saying "misery loves company" came close to applying to the rail and trucking industry. It was about the only period in which a rail and truck executive would have been likely to commiserate with each other on the problems of operating Canada's transportation systems.

The undeclared truce did not last long. Despite the general percentage increases in railroad freight rates, a downward trend in railroad rates on competitive traffic became noticeable. There were competitive rate reductions and agreed charges. Further reductions were accomplished by changes in the railroad freight classification. For example, automobiles in carloads were reduced from first to the equivalent of second class in a substantial part of the country. Butter moving in carloads was reduced from third to fourth class. The movement of canned goods in large carloads was subjected to a reduction from fifth to sixth class. The brewing industry appeared to be particularly favoured—ale and beer were reduced from fifth class to commodity rates, in some cases the equivalent of tenth class.

A table in the report of the Royal Commission on Agreed Charges, on page 13, shows that the percentage of agreed charge revenue to total railway revenues rose from 2·4 per cent in 1949 to 6·2 per cent in 1954. The estimated revenue from agreed charges in 1954 represented an increase of more than 25 per cent over the figure for 1953, although the overall revenues of Canadian railways showed substantial declines in 1954, as compared with 1953, resulting from the reduced level of economic activity.

Between the period 1949 and 1953, there was a 38 per cent increase in the movement of railroad traffic under motor truck competitive rates, according to the waybill analysis conducted by the Board of Transport Commissioners.

In 1954, approximately 80,000 new motor truck competitive rates were instituted by the Canadian Pacific and Canadian National railways. The total of all Canadian Pacific Railway competitive rates in effect in 1954 was approximately 1,200,000. This is an estimate, Mr. Chairman, and I am subject to correction by the counsel for the Canadian Pacific.

On the Montreal-Toronto run, where the heaviest freight traffic volume in Canada moves, truck operators, in May, 1954, received the first instalment of precipitous railway rate slashes. This was followed in September, 1954, by a second railroad rate slash—perhaps it might be called the atom bomb of all transportation rate cuts that have yet occurred in Canada.

Some of the truck operators on the Montreal-Toronto run, according to our investigation, had themselves been cutting below the railroad rates prior to the May, 1954, rail rate cuts. To that extent, they exacted their own retribution. Many well-informed people in the trucking industry thought that if truck operators charged at or near the railroad rates the railroads, in turn, being anxious to avoid a mutually-destructive rate war, would maintain their own rates. This view was not supported by the long term trend, evident in facts reviewed in this submission. The increase in agreed charges, the 38 per cent increase in the movement of roalroad traffic under motor truck competitive rates between the period 1949 and 1953, are sufficient evidence that the rate war was in full force long before the specific action of the railroads in September, 1954, brought the whole issue into dramatic focus on the Montreal-Toronto run.

We have been frank to admit that there was provocation for the railroad rate cuts on the Montreal-Toronto run in May, 1954. Every statement and bulletin of the association has admitted the fact. The railroad rate cuts of September, 1954—the second instalment of rail rate cuts on the Montreal-Toronto run—bore no direct relation to the level of truck rates except that they undercut all of the rates that were being maintained by truck operators by as wide a margin as possible. They were an open attempt to achieve by price-cutting the removal of all Montreal-Toronto freight traffic from the trucks. The overall rail reductions were approximately 35 per cent in September, 1954, but in many cases their cuts went as much as 50 per cent below the level of truck rates.

According to reports we have received from the operators, the reduction in gross revenues of the Toronto-Montreal trucking firms—in business lost where rail rate cuts could not be met and in rate cuts matching a substantial portion of the rail cuts—has amounted to 40 per cent. Our gross revenue on the Toronto-Montreal run is down that much since September, 1954, according to the reports we have been able to obtain from the operators.

Let it be emphasized that in bringing out all of the foregoing information on the rail-truck rate war, we are not complaining about price being a competitive factor. We do not expect, we do not say, that rail and truck rates should be frozen at the same level. Neither by legislation nor by an illegal combination of the rail and truck price-setting processes do we seek this. Canadian Trucking Associations has always taken the stand that the railroads should retain the right to make motor truck competitive rates embodied in present provisions of the Railway Act. Our stand on this point was made abundantly clear to the Royal Commission on Transportation at the final hearings in November, 1949, and the commission's report of February, 1951, stated at page 86:

> Competitive rates are an important factor in the rate structure. No one who appeared before the commission advocated their abolition.

Again, at page 90 of the 1951 report, the royal commission stated:

> The Canadian Automotive Transportation Association (now CTA) in referring to agreed charges said that they 'catered to big business', that the Canadian National proposal was a reversion to the 'law of jungle' and that, although the railways should be permitted to use competitive rates, they should not be permitted to use the agreed charge.

In evidence given in Ottawa at the final hearings of the Royal Commission on Agreed Charges, Mr. G. M. Parke, immediate past president of Canadian Trucking Associations, told the commission on November 17, 1954 (transcript pages 1861 and 1862):

> I would like to say this, that the truck has features that commend its use to the shipping public just as the railways have features which commend their use to the shipping public. If rate is the only, or is the chief, consideration then the form of transport which provides the cheapest rate will invariably get the business. If the trucks can carry the goods cheaper than the rails, then the trucks will get the traffic; If the rails can carry the goods cheaper, then the rails will invariably get the traffic.
>
> Rates will be determined by economic forces; and we in the trucking business are asking no favours with regard to rates. We are prepared to compete in service as well as in rates. I would like to repeat, just to be clear, that we seek no concessions from the railways in the matter of rates. The railways should be free to meet competition with competitive rates.

The CPR brief to the Royal Commission on Agreed Charges referred to "the severe regulatory control of freight rates imposed by the Railway Act". The validity of this reference in regard to competitive rate-making was carefully examined at the 1954 Royal Commission hearings.

The relevant section of the Railway Act is 334, subsection (1) being as follows:

> 334. (1) The board may provide that any competitive rate may be acted upon and put into operation immediately upon the issue thereof before it is filed with the board, or allow any such rate to go into effect as the board shall appoint.

The board has made regulations regarding the implementation of competitive rates. These regulations are contained in the board's order on the subject as follows:

> Competitive rates comprising reductions from existing published rates, which, owing to the exigencies of competition of transportation services not subject to the board's jurisdiction, are urgently required to be brought into immediate effect without previous notice to the board, may be acted upon before filing with the board, but the initial carrier, or duly appointed agent, must forthwith publish such rates and file the same with the board, effective as from the date of the movement of the traffic. The filing advice covering the filing of such schedule shall be accompanied by a clear statement of the reasons for such publication, the name of the party for whom the rate was made, the rate and the name of the carrier with whom competing, the rate which would otherwise apply in the absence of such publication, and such other information as will satisfy the Board as to the bona fides of the action taken.

Just how much freedom the railways have in competing rate-wise with the trucking industry was brought out in evidence given before the Royal Commission on Agreed Charges by Mr. Charles Edsforth, assistant general traffic manager of the Canadian Pacific Railway. At the final hearings in Ottawa he

was questioned on November 8th, 1954, by Mr. F. R. Hume, Q.C., counsel for Canadian Trucking Associations, and his answers appear at page 975 of the transcript, as follows:

Mr. HUME: Q. Is it not true that the railways may put in a competitive rate and meet the truck rate almost over night?

The WITNESS: A. They can put it in on short notice, that is right.

Q. So that the railways are just as free to quote a rate on any competition with the truck as the truck is on any competition with the railrays?—A. We are free to quote a rate just as much as the trucker is.

Again, at pages 984 and 985 of the transcript for November 8th, we find the following exchange of information:

Mr. HUME: Q. The point I want to make is that don't you have the same freedom in putting in competitive rates as your truck competitors?

The WITNESS: A. We have freedom to put in competitive rates, Mr. Hume, yes.

Q. As a matter of fact, Mr. Edsforth, I was able to get a few figures over the week-end and you can just substantiate them for me if you will. I am advised that so far as your railway company is concerned, for the period from January 1st 1954 to April 30th 1954 you put in a total in eastern Canada of 11,828 competitive rates to meet motor truck competition?—A. Where was this, Mr. Hume, what part of the country?

Q. It is Tariff E. 1355-E.

The COMMISSIONER: In what period of time did you say?

Mr. HUME: January 1st 1954 to April 30th 1954—a period of four months.

The WITNESS: Well, I can explain. Quite a few of those, Mr. Hume, would be water competitive rates which expire the end of November each year and then go back into effect on either the 15th or 30th of April when navigation opens again. That would account for quite a few of those.

Q. No, I pointed out that my information indicates that you designate those in your tariff as motor competitive rates. These have nothing to do with water.—A. That may be, Mr. Hume, I won't dispute your figure at all. It does show that we are making competitive rates all the time to meet the competition; we cannot take care of everything with agreed charges.

Q. And I am given the information that there are over 1,200,000 competitive rates in existence by the Canadian Pacific in eastern and western Canada?—A. That may be, I don't know.

Q. So you have complete freedom in putting in those competitive rates to meet competition with someone only on a rate basis?—A. Yes, we have complete freedom. We have to file them with the Board of Transport Commissioners, of course. They have to meet all the conditions laid down by section 334 or they must be in that category.

At pages 990 to 992 of the royal commission transcript for November we find the following:

Mr. HUME: The second sentence in that paragraph (of the CPR brief) dealing with the Transport Act, Mr. Edsforth, says this:

It was the first act of general application which contained any departure from the severe regulatory control of freight rates imposed by the Railway Act.—A. Yes.

Q. Now, when I read that I thought the impression you were trying to indicate was that up to that time you were subject to severe regulatory control of rates?—A. Under the Railway Act?

Q. Yes.—A. Yes.

Q. And I just wanted to ask you whether or not ever since 1904 you have not had that freedom of putting in competitive rates that you and I have already been discussing this morning?—A. We have always been free to put in competitive rates as they were required, that is right, ever since 1904.

Q. So that the Transport Act is not the first Act of general application that departs from that severe control, is it?—A. Well, I don't know, Mr. Hume, just how I can answer that, except that the Transport Act was a departure from all of the provisions of the Railway Act. In other words, it gave new conditions under which you could make freight rates without all of the restrictions that were in the Railway Act. That is, I think, what we were trying to convey there.

Q. I see.

The COMMISSIONER: Do you mean to say, your brief means to say that while the controls still remain under the Transport Act they are less severe, is that what you mean?—A. Well, my lord, in this way—

Q. You talk about it as a departure from the severe regulatory control of freight rates imposed by the Railway Act?—A. Yes, my lord.

Q. The control was not ousted, there is still a control under the Transport Act?—A. Oh, yes, there is still control, my lord, yes.

Q. What you mean is it is less severe now?—A. Yes, it is not the same control as the Railway Act imposes, that is right.

Q. Do you mean by that merely this: that now you can make agreed charges and formerly you could not?—A. That is right, my lord.

Q. That is the whole thing?—A. Yes, that is so.

By Mr. Hume:

Q. So that the severe control, regulatory control of freight rates to which you refer, always contained almost complete freedom to meet your competition rate-wise?—A. We always had freedom to meet competition, of course.

The ability of the railroads to make competitive rates unhampered by any formality other than a telephone conversation with a shipper was admitted by the C.P.R. witness. At pages 1002 and 1003 of the November 8 transcript we find this:

By Mr. Hume:

Q. Then just at the top of page 5, perhaps we have discussed this and I do not need to labour it, your reference there is to the operators of highway transports making a rate by telephone or at the shipper's door. So far as the railways are concerned, and let us say the larger truckers, the two positions are almost comparable—A. I know that so far as the railways are concerned, but I do not know so much about the trucking companies, the large trucking companies, just how they operate. I do not think they really are, because of their size, in the same position as the railways. I think they could make rates probably more quickly than we could.

Q. Can you not make rates by telephone?—A. We can make rates by telephone, certainly.

Q. But you cannot make them at the shipper's door?—A. Well, it is rather an impractical sort of thing.

Q. You will agree with me that, except for the man who is driving his own truck, the trucker cannot make rates at the shipper's door, either?—A. Unless they give their drivers the right to do that.

By the Commissioner:

Q. Who can make rates on behalf of the railways by telephone?—A. The officer who is in charge of making freight rates can make a rate with the shipper over the telephone, in conversation.

Q. The officer who is in charge—where is he located?—A. In Montreal, sir, at headquarters, of course, and then we have officers in Toronto who are likewise able to do that, and again in Winnipeg and Vancouver.

Mr. Edsford went on to state that railway rate-making on the telephone was "not the usual practice."

In the Vancouver speech of Mr. Gordon, which we quoted at the beginning of this section of our submission, his somewhat acid comment on railway regulation was particularly addressed to section 334(2) of the Railway Act. He quoted this entire section of the Act in his speech. One can agree with the C.N.R. chairman and president that section 334(2) could, if invoked by the Transport Board, take the railroads close to the fettered condition which Canadian railroad officers have sought to convince the public now exists. Section 334(2) was inserted in the Railway Act on the recommendation of the Turgeon Royal Commission on Transportation. Parliament passed the amendment in 1951. The section reads:

334 (2) The board may require a company issuing a competitive rate tariff to furnish at the time of filing the tariff, or at any time, any information required by the board to establish that

(*a*) the competition exists;

(*b*) the rates are compensatory; and

(c) the rates are not lower than necessary to meet the competition; and such information, if the board in any case deems it practicable and desirable, shall include all or any of the following:

(i) the name of the competing carrier or carriers,

(ii) the route over which competing carriers operate,

(iii) the rates charged by the competing carriers, with proof of such rates as far as ascertainable,

(iv) the tonnage normally carried by the railway between the points of origin and destination,

(v) the estimated amount of tonnage that is diverted from the railway or that will be diverted if the rate is not made effective,

(vi) the extent to which the net revenue of the company will be improved by the proposed changes,

(vii) the revenue per ton-mile and per car-mile at the proposed rate and the corresponding averages of the company's system or region in which the traffic is to move, and

(viii) any other information required by the Board regarding the proposed movement.

As indicated, this section of the Railway Act looms large in the minds of Canadian railway officers on occasions when they refer to their lack of freedom in meeting competition. Let us examine the manner in which the Transport Board deals with the railways under section 334(2).

Section 334(2), although it was inserted in the Railway Act on the recommendation of the Royal Commission on Transportation, contains a far-reaching change from the language of the royal commission. Parliament dealt more leniently with the railroads than the commission recommended. It was the commission's recommendation, at page 86 of the 1951 report, "that whenever a railway files a competitive rate or an amendment thereto, it shall simultaneously supply the board with information similar to that now filed with applications for agreed charges." The 1951 report then goes on to particularize as to the information which "shall" be supplied. That information is exactly as specified in the amendment passed by parliament in 1951—section 334(2) of the Railway Act.

Parliament, apparently in the belief that the recommendations of royal commissions are not to be considered sacrosanct, used the word "may" instead of "shall" in giving effect to the 1951 royal commission's recommendation. Thus the Transport Board is under no legislative compulsion to take any action whatever in regard to section 334(2). We have not complained about this. CTA made no appearance before the Special Committee on Railway Legislation in 1951 to fight the legislation which changed the royal commission's intent as to what should be done. CTA has never made representations to the Transport Board which, if successful, would have had the effect of invoking section 334(2).

The number of times that section has been invoked by the Transport Board since 1951 is, in fact, an infinitesimal fraction of one per cent. When a check was made for CTA in November last year, the Canadian Pacific Railway had in effect 1,200,000 competitive rates. In this respect, the evidence developed in cross-examination of Mr. Edsforth at last year's royal commission hearings is enlightening. At pages 995 and 996 of the transcript for November 8, 1954, he is reported as stating:

> Mr. EDSFORTH: . . . We must also at the same time be ready, if called upon by the Board of Transport Commissioners under section 334, to be able to prove certain things in respect to our rates—that is to say, what the competition is, where it operates, and that the rate is no lower than necessary to meet the competition, that the rate is compensatory, that it will improve the net revenue and so forth. Those are all things which we must be ready to—
>
> The COMMISSIONER: Q. Mr. Edsforth, are you often called upon to do that?—A. We have not been so far, my lord, very many times, but the requirement is still there and we must bear it in mind when making a rate.
>
> Mr. HUME: Q. May I just follow that up by asking you, of the 11,828 competitive rates put in the first four months of this year, were you asked to comply with that, to do that in any one of those, that you remember?—A. I don't recall any specific instance, Mr. Hume, except that I do think the board has asked us on one or two occasions to give them certain information on our rates.
>
> Q. And you have 1,200,000 rates so one or two instances are not a very severe regulation?—A. Well, of course it is always there and may be applied at any time.
>
> Q. But it is not so severe?—A. No.

At the royal commission's hearing of November 15, 1954, Mr. Charles L. McCoy, freight traffic manager of the Canadian National Railways, was asked by CTA counsel to tell the commission the number of times section 334(2) had been invoked by the Transport Board in respect to the CNR's motor truck competitive rates. His reply, shown at page 1621 of the transcript, was that

during the period January 1, 1953, until the date on which he was giving evidence—November 15, 1954, the CNR received from the Transport Board 17 requests for information under section 334(2), 12 of them in 1954.

Mr. McCoy could not say how many motor truck competitive rates the CNR had instituted in 1954 although he thought that for the first four months of the year "we might have a few more" than the Canadian Pacific. During the same four-month period, the CPR had made approximately 11,828 motor truck competitive rates.

It would be a very grave error to assess the railroads' ability to freely meet competition only on the basis of their ability to do so rate-wise. The rate is the price of the product. What about the product itself? The railroad and trucking industries are selling one product for the movement of freight—service. What is the railroads' competitive problem in respect to service? How free are they to deal with that problem?

It is now almost three decades since a few 'for hire' truck operators commenced their conquest of distance by offering service on inter-city and rural routes. While the truck appeared to be an insignificant unit of transportation in comparison to the freight train, the need for truck service was there. Mass transportation encountered a change in shipping requirements in the early 1920's. Canadian industry, during the post-war period, learned the lessons of hand-to-mouth buying, frequent stock turnover, and reduced inventory. Merchants ceased to order the large stocks which they used to carry on warehouse shelves for months at a time. This created a demand by shippers for a vast increase in the frequency and speed of freight service. The truck met this need just as the railway answered the need for mass transportation.

It is interesting to note that except for several of the worst years of the depression, truck registrations, tonnage volume and gross revenues increased annually throughout the 1930's although wages and salaries were at a low level. The depression accelerated the changes which were taking place within industry in Canada. Those who had been slow to heed these changes were now compelled to do so. By carrying stocks in small quantities, merchants could effect vital economies in the conduct of their business and the necessity of much arranging of credit with the banks was eliminated. Freight traffic was diverted to the highways as shippers were compelled to overthrow the basic concept of mass movement upon which transportation had been predicated since the early 19th century.

Through the use of trucks merchants saved hundreds of millions of dollars in inventory reduction. The trucking industry was well on its way to establishment in the 1920's, but it was the depression of the 1930's which "made" the industry as we know it today.

If any significance is to be placed on the reasons which shippers themselves cite as determining their use of highway transportation, it is apparent that the trucking industry has reached its present position in transportation primarily on the basis of the service it has rendered the public.

We merely cite this for the committee because so often it is thought that the trucking industry has reached its place in transportation on a price-cutting basis.

Our competitors have the evidence about public acceptance of motor transport service. It is to be found in an interesting study made at the end of World War II by the Association of American Railroads, of which both the Canadian National and Canadian Pacific are members. It was a study to develop information regarding post-war competitive conditions. The Association of American Railroads sent a questionnaire to shippers asking them to state the primary reasons for their use of common, contract, and private trucking

services. The questionnaire dealt with the movement of merchandise and the replies were given separately for inbound and outbound traffic. A complete report of the results of this questionnaire is attached as appendix D of this submission.

On the inbound traffic, shorter transit time was given by 78 per cent of the shippers as their reason for using trucks. Lower costs were cited by 12 per cent. A variety of other reasons, particularly less handling, less marking and packing, and less loss and damage were cited by 10 per cent of the shippers.

The railroad association's study uncovered similar preference on the outbound traffic. Again, shorter transit time was the overwhelming preference of shippers, 73 per cent giving this as their reason for using trucks. Lower costs were cited by 12 per cent, and 15 per cent cited a number of other reasons such as pick-up and delivery, less handling, and a more personal service.

There is no regulatory restraint on the railroads' ability to fashion improved freight services for shippers. They know the problem. They have found out for themselves where their service difficulties lie. They are free to deal with the problem.

Rate-wise, the real picture is not that of prostrate, fettered giants, trying to cope with truck competition, each with one hand tied behind their backs. The real picture is that of an industry, with infinitely greater economic resources than the trucking industry, free to slash away at the existing truck rates at will.

It is an industry—Canada's railroad industry—which in competitive rate cuts has not been opposed by Canadian Trucking Associations in so far as representations to the government, or government bodies, are concerned. Whatever the severe regulatory control of freight rates imposed by the Railway Act, the record is clear that the railroads' competitive rate-making processes—embracing between 2,000,000 and 3,000,000 competitive rates now in effect—and that is our estimate for both of the railways—must be exempted from the overdrawn phraseology which has come so plausibly and easily from Canadian railroad spokesmen.

Mr. HAMILTON (*York West*): Mr. Chairman, would this not be a logical place for us to take a break?

The CHAIRMAN: Let us continue with part IV.

The WITNESS:

PART IV

THE RAILROAD TRAFFIC DECLINE—
IS THE TRUCKING INDUSTRY RESPONSIBLE?

Is the trucking industry responsible for the railway freight traffic decline?

The recommendations of the Royal Commission on Agreed Charges (1955) are based on the following assumptions:

(*a*) that the railway industry in Canada is a sick industry,

(*b*) that this sickness can be attributed to the growing strength of the trucking industry—alleged to be capturing more and more of the freight carried by the railroads,

(*c*) that given freedom to negotiate agreed charges on a wide-open basis the railways could recapture this lost business which is claimed to be essential to the profitability of the industry as a whole.

It is held, in effect, that the decline in freight volume carried by rail of such goods which are subject to motor carrier competition is mainly responsible for the present ills of the railway industry.

However, it can be shown conclusively that those goods which in actual fact are carried competitively by both rail and road transports form only a very small proportion of the railways' freight operations have been caused by factors which have little or nothing to do with truck competition.

The table in appendix E contains compilations of the revenue tonnages for both the CNR and CPR for the years 1950-1954, inclusive, arranged according to commodity groups. In the returns of the two railway companies the definitions for these broad commodity groups are identical; the revenue tonnages can therefore be added to arrive at the sum total for both railway systems.

The relative importance of the commodity groups within the railways' total freight business is shown in the table below by their percentage shares:

Volume of Freight by Commodity Groups

Source: Annual Reports CNR and CPR

Commodity Group	Share of Volume of Freight Business Average for 1950-54
(1) Agricultural Products	21·4%
(2) Animal Products	1·2%
(3) Mine Products	34·7%
(4) Forest Products	12·2%
(5) Manufactures and Miscellaneous	30·5%
Total	100·0%

The trucking industry does not, generally speaking, compete with the railways for the carriage of goods covered by groups 1, 3 and 4, agriculture products, mine products, and forest products. These bulk commodities simply do not lend themselves to long distance movement by motor vehicle except for specialized services such as refrigerated highway transport for perishable agricultural products and logging operations in Canadian forests.

The most important individual products within this broad category of bulk commodities are the following:

Group 1: all grains, flour and other mill products,

Group 3: all coals, ores and concentrates, stones, sand and gravel,

Group 4: pulpwood, lumber and timber.

If any of these products are moved to any appreciable extent by truck then it is only over short distances from fairly inaccessible production areas to the consumer or the processer, where no other form of transportation is available. Alternatively, the trucker performs feeder services between the farm, the mine, the quarry or the forest and the nearest railway station. In these cases he brings business to the railways instead of taking it away. In the heat of controversy it should be remembered that over a considerable range of their operations, rail and road transport complement each other rather than compete, both individually performing those functions for which they are best suited technically. The non-competitive bulk commodities account for 68·3 per cent, or more than two-thirds, of the railways' freight business.

Group 2, Animal Products, can be neglected because of its relative insignificance (1·2 per cent of total volume).

We have to look within the remaining Group 5, Manufactures and Miscellaneous, for that freight traffic, sometimes called "the cream" of the freight traffic, which is subject to intensive competition and has allegedly caused the railways' financial embarrassment.

Mr. C. D. Edsforth, assistant general traffic manager of the Canadian Pacific Railway, put it this way in evidence to the Royal Commission on Agreed Charges on November 3, 1954 (royal commission report, page 15):

> Mr. Spence: Has there been a heavy decline in revenue in any particular part of the traffic of the railway?
>
> Mr. Edsforth: Yes, there has been. There has been quite a heavy decline in revenue from grain and grain products all over Canada, not only in the West but in the East as well. There has also been a very noticeable decline in our revenue from manufactured goods, that is quite substantial.
>
> Mr. Spence: Yes, but is the category of manufactured goods one that is subject to competition?
>
> Mr. Edsforth: Very much so. That is, I would say, perhaps the most subject to competition. That has been our experience so far.

Group 5, as defined by the two railway companies, covers a great variety of products. Certain products can be singled out within the group which are clearly not carried to any great extent by trucks for the same reasons which apply to the commodities of groups 1, 3 and 4.

Such typical railway freight items are, amongst others, iron (pig and bloom), rails and fastenings, iron and steel (bar, sheet structural, pipe), cement, brick and artificial stone, lime and plaster, woodpulp and so on. These items alone amount to about one-fifth of Group 5 revenue tonnage.

There are also gasoline, petroleum oils and petroleum products which account for another fifth of Group 5 revenue tonnage. Trucking firms in the west do transport petroleum from the refineries on some scale but they mainly serve consumers or distributors located within the oil districts. Thus, by and large, they are not competing with the railways on long hauls. The volume of petroleum products hauled by motor carriers is dwarfed by the huge quantities moved by the real competitors of the railways in this specialized field: the pipelines. This point is substantiated by railway evidence.* In addition the oil companies carry a large proportion of their products themselves by means of large fleets of tank trucks.

It can be concluded that the volume of railway revenue tonnage which can be affected to any measurable extent by truck competition forms only a small proportion of the great bulk of rail freight operations. It is a segment considerably smaller than the 30·5 per cent of total railway traffic accounted for in the group "Manufactures and Miscellaneous" since this percentage is the total for the group, from which must be eliminated freight for which truck operators do not compete.

We submit that a fair estimate is that Canadian truck operators compete within a 15 per cent to 20 per cent sector of the railways' total revenue tonnage volume. The railways, by contrast, are competing with the trucking industry over almost the whole range o fthe truck operators' business—not only on the basis of rail versus road transport but also through rail-owned highway transport enterprises.

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*The CNR Annual Report for 1951 states: "A significant decline in bituminous coal tonnage from the abnormal levels of 1950 was in part attributable to a continued trend towards the substitution of fuel oil for industrial purposes. The only other major tonnage decreases occurred in the case of crude oil . . . reflecting the diversion of traffic to pipelines."

Continuation of this trend is evident in the 1953 Annual Report of the CNR: "Coal shipments were affected by . . . the continued trend towards the substitution of oil and gas for coal fuel by industrial and household consumers."

Granting that truck competition ranges within the 15 per cent to 20 per cent railway freight sector, has this really had a detrimental effect? Does the experience of the past few years support the view of the railways that truck competition has been responsible for their financial plight?

Mr. HAMILTON: (*York West*): It is one o'clock, Mr. Chairman.

The CHAIRMAN: We have agreed to continue to the end of Part IV. The witness has only three pages more to read. Please continue, Mr. Magee.

Bearing in mind that truck competition is confined to a very narrow range within the field of railway transport, let us examine the actual operating experiences of the railways from 1950 to 1954 (inclusive). All the data used and the statements quoted subsequently are taken from the annual reports for CNR and CPR for these years. In addition a tabulation of Grain Production Trends published by the Dominion Bureau of Statistics has been used.

We again refer to appendix E showing revenue tonnages by commodities for both CNR and CPR, 1950-54. Looking first at the freight totals year by year we find that the volume carried climbed steeply from an initial 135 million tons in 1950 to 150 million tons in 1951. It then increased moderately to a peak in 1952 of 152 million tons, representing the all-time record for freight carried by the two Canadian railway companies. From 1952 to 1953 there was a serious fall in freight volume to 133·5 million tons. Thus, during a period of prosperity, progress and increased production for Canada as a whole the railways found themselves carrying a smaller tonnage at the end of the five-year period than at beginning.

But what were the real reasons for the fluctuations and the eventual decline in traffic? From data given in appendix E 'average years' for the period have been calculated. Based on these averages, the freight volume trends for the commodity groups are shown in the following table on a percentage basis.

Freight Traffic Trends, CNR & CPR, 1950-54

Percentages of Revenue Tonnages by Commodities

(Sources: Annual Reports, CNR and CPR)

Commodity Groups	1950	1951	1952	1953	1954	Annual Averages 1950-54 %
(1) Agricultural Products.....	77·4	99·8	119·7	115·5	87·7	100
(2) Animal Products	114·1	106·3	93·3	94·3	92·1	100
(3) Mine Products	103·7	102·5	100·1	97·2	96·4	100
(4) Forest Products	91·0	121·6	109·2	90·4	87·8	100
(5) Manufactures & Miscellaneous	95·8	104·2	101·7	102·3	96·0	100
Total, all commodities	94·4%	104·9%	108·1%	101·7%	93·2%	100%

It is at once apparent that the agricultural products show the greatest fluctuations, rising by as much as 42 per cent from the worst year, 1950, to a peak in 1952, only to fall again to 12 per cent below the average for the period in 1954. Forest products display a very similar trend, although here the peak year is 1951 and the minimum is reached in 1954. Mine products, on the other hand, show a steady and slow decline, from a high of 3·7 per cent above average in 1950 to 3·6 per cent below average in 1954. As pointed out before, the fall in the consumption of coal was the factor affecting the freight

movements of mine products. These four commodity groups account for approximately 70 per cent of the total railway tonnages. It is therefore not surprising that the freight trend for all commodities taken together should be shaped and determined by these bulk commodities, rather than by the remaining Group 5. In fact, the volume of manufactures and miscellaneous products carried by the railways varies only slightly over the years. This is especially remarkable in view of the violent fluctuations of iron and steel freight volume which form an important part of Group 5. These violent fluctuations—iron and steel freight traffic has diverged by more than 30 per cent from the average trend line during the period under review—are hardly surprising; iron and steel has been a notorious "feast and famine" industry. Any statistician would find it hard to support the argument that intensive trucking competition has been progressively ruining the railways when looking at these mild little variations of plus and minus four per cent. It is also unfortunate—for the railways' case—that the trend of tonnage comprising manufactured products did not—however slowly—lead straight and persistently down to disaster, but displayed variations above average in 1951, 1952 and 1953, just at a time when truck competition was allegedly doing such serious harm to the railways in this sector of the nation's freight traffic.

Had Group 5 products shown the same steady decline over the period, as for example, mine products, then there might have been reason to believe that the truck operators were encroaching to an increasing extent on the railways' freight business.

Taking all factors into consideration, it is more than likely that the fluctuations in grain harvests and the conditions in the world markets, which determine the demand for a large part of the railway freight services, are mainly responsible for the variations in freight volume. This view can also be supported by a comparison of grain production indices and the indices for freight, all commodities, contained in the following table.

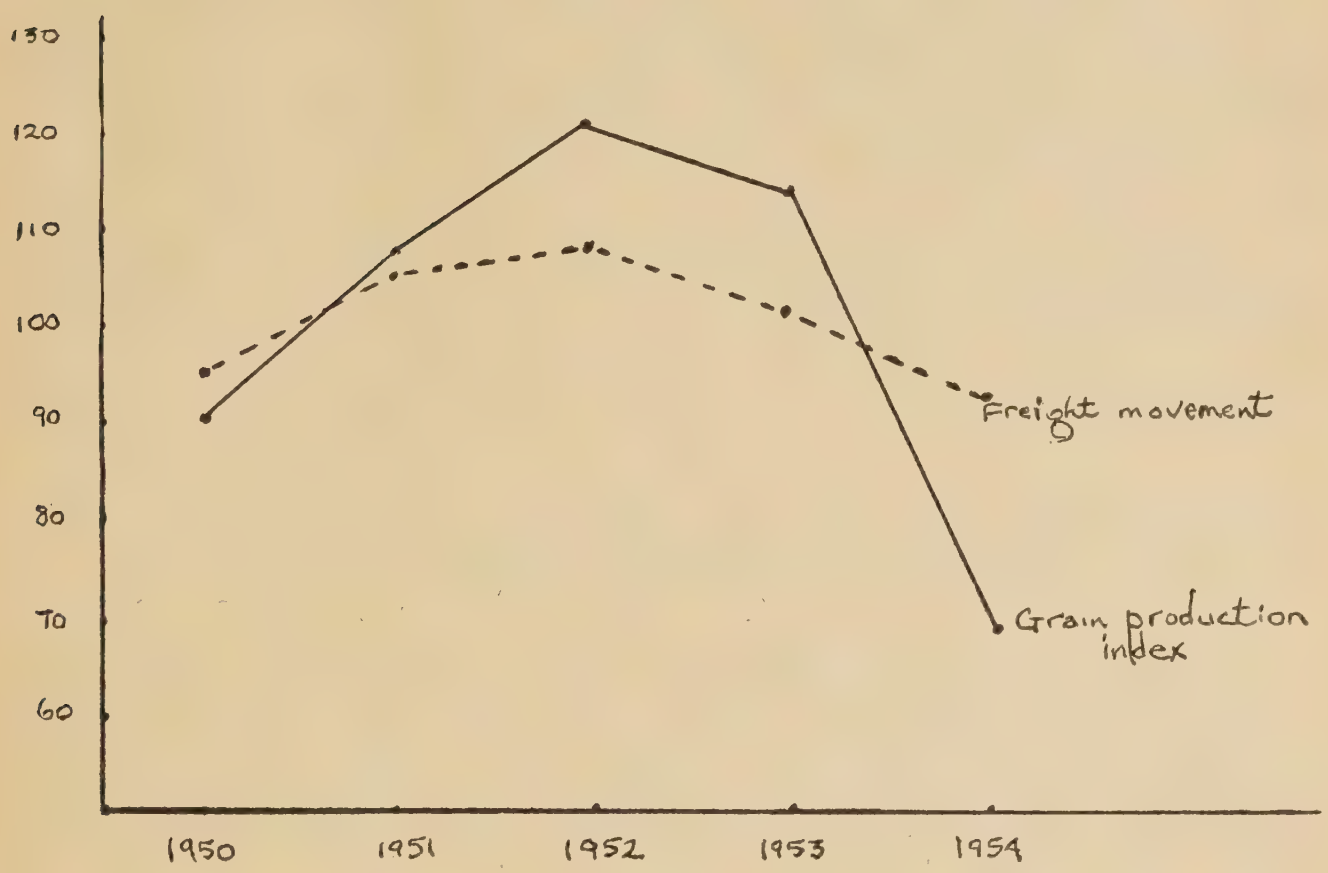
GRAINS—PRODUCTION TRENDS

Canada 1950-54

Sources: Dominion Bureau of Statistics; CNR and CPR Annual Reports

Year	Production of grains millions of bushels	Grain production Index Ann. average 1950-1954—100	Freight Movements (all commodities)
1950	1,163	90·4	94·4
1951	1,401	108·9	104·9
1952	1,567	121·9	108·1
1953	1,408	109·5	101·7
1054	893	69·4	93·2
Total 1950-54	6,432		
Annual average (1950-54)	1,286	100·0	100·0

The relationship of grain production to the trend of the railways' annual freight volume is illustrated in the following graph:



The CHAIRMAN: Gentlemen, we will meet again at 2.30 o'clock this afternoon in this room.

Mr. BARNETT: Mr. Chairman, do you mind repeating the announcement of the time for the meeting this afternoon; we could not hear it at this end of the room.

The CHAIRMAN: We will meet this afternoon at 2.30 o'clock.

AFTERNOON SESSION

JUNE 28, 1955.
2.30 p.m.

The CHAIRMAN: Gentlemen, we have a quorum. Please turn to page 48 of the brief.

Mr. CAVERS: Part V.

Mr. John Magee, Executive Secretary, Canadian Trucking Associations, Incorporated, recalled:

The WITNESS:

PART V

IS THE TRUCKING INDUSTRY MORE PROSPEROUS THAN THE RAILROADS?

We now deal with the finding on page 25 of the report of the Royal Commission on Agreed Charges that the trucking industry is more prosperous than the railway industry. This is an important conclusion. That the trouble was taken to cite this as a fact indicates that it was of significance in the commission's mind. We believe the conclusion to be of importance because it very probably affected the commission's thinking as to how drastically the agreed charge weapon should be re-fashioned for the railroads.

We submit that the commission's conclusion that the trucking industry is more prosperous than the railway industry is an error.

It should be noted that although almost all the freight traffic carried by truck operators is subject to the competition of the railways, a relatively much smaller proportion of the railway traffic is subject to competition from the trucking industry. This in itself puts the trucking industry at a disadvantage. Even if the railways' competitive rates policy does not improve their financial results, even if it results in losses, those losses form only a part of their over-all financial results, and might be outweighed by the revenues from other traffic.

To determine the ability of the trucking industry to withstand the wide-open type of agreed charge rate-making envisaged in the legislation now before this committee, the following factors must be considered:

(i) The size of the firm.
(ii) The existing profit margin of an average trucking enterprise.
(iii) The relative positions of the trucking industry and of the railways regarding the supply of capital.

An economic analysis of the trucking industry is made difficult by the paucity of existing data and by the fact that trucking industry statistics are published with a time-lag of over two years. For example, the latest figures issued by the Dominion Bureau of Statistics are for 1952.*

*The Bureau's Public Finance and Transportation Division, with the co-operation of Canadian Trucking Associations and provincial trucking associations, is introducing a nation-wide statistical sampling program for the trucking industry. This will produce complete national trucking statistics and reduce the time lag in their release to the public.

Before proceeding with this analysis, we should mention the only other statistical evidence on the financial position of the trucking industry which was before the Royal Commission on Agreed Charges. This was the Statistical Summary of the first two surveys of Manitoba's trucking industry, released in November, 1954, by the Public Finance and Transportation Division, Dominion Bureau of Statistics. The Bureau's Statistical Summary of these surveys of the Manitoba trucking industry is included with this submission as appendix F. The greater part of these statistics represent the results of an origin-and-destination survey of trucks which reported movements into or out of the province of Manitoba during the survey period. Useful as they are, they do not, however, shed any light on the problems under review.

The only financial data which are contained in the summary of the Manitoba survey published so far are gross revenues per mile of operation, per vehicle per week, per ton-mile. Since neither operating expense data nor capital asset values of trucking firms are covered by the Manitoba survey, it is impossible to draw any conclusions as to the profitability and financial strength of these truck operators.

Manitoba was picked by the bureau for a trial run, in modified form, of the nationwide sampling system being inaugurated in respect to trucking statistics. The survey data, being confined to Manitoba, are too restricted in their geographical application as to be representative of conditions in Canada as a whole.

We have reviewed that at some length, Mr. Chairman, because that was one exhibit which was placed before the royal commission by this association on the subject of the operating results of the trucking industry.

The statistics used here are based on the Dominion Bureau of Statistics publication "Motor carriers: Freight-Passenger" for the year 1952, which was only released at the end of April, 1955.

If I might interrupt myself for a moment again, Mr. Chairman, I would like to say that none of these comments about the Dominion Bureau of Statistics figures lagging behind is intended to be a criticism of the bureau. The problem of obtaining returns from 15,000 truck operators is a very difficult one and as a matter of fact the bureau is now inaugurating a new statistical sampling system as a result of the success of this Manitoba survey which we mentioned and the Canadian Trucking Associations and all the provincial trucking associations are cooperating with the bureau in an effort to make the new system a success and thus make available for such hearings as these complete national statistics on the trucking industry which unfortunately are unavailable today. At the time when the hearings of the Royal Commission on Agreed Charges were held, the 1951 Motor Carrier report was the latest one available. The 1952 report is included as appendix G of this submission. In appendix H, D.B.S. figures on 'for hire' trucking for three years, 1950 to 1951, inclusive, are used to facilitate comparisons.

The average trucking firm is relatively small. Appendix I, based on the figures supplied by the Dominion Bureau of Statistics, shows that the average gross revenue of a trucking company was $44,327 in 1952. For Group I carriers —a D.B.S. designation covering carriers with gross revenues of $20,000 and over—average gross revenue in 1952 was $156,393. Compare this with the railways' 1952 results—an average gross revenue for Canadian railway companies of $38,925,223. CNR gross revenues for freight traffic only were $528,128,689 in 1952: the CPR's gross revenue for freight traffic in the same year was $378,283,779.

The average net revenue of a trucking firm in 1952 was $1,945 (appendix I). This figure takes into account the allowance for working proprietors, i.e. their salaries for performing managerial functions, and in

many cases their wages for operating trucks. This allowance is estimated by us on the basis of the D.B.S. figures at $2,279 on the average; hardly an exorbitant figure. We have taken a total figure for the working allowances of the truck operators and divided the number of operators into that figure.

To obtain an index of the true profitability of the two industries net operating revenue is related to the gross earnings, a procedure much more defensible than relating profits to capital investment.

The following are the reasons for adopting this procedure:

1. According to the generally accepted economic theory, profits are a remuneration for the risk-bearing function in productive activities. Turnover, or gross earnings, are a much better index of the magnitude of business risks taken than investments.

2. The capital structures of the two industries are not comparable. The present railway investments are to a very large extent a legacy of the past, representing both past glories and past mistakes. There is no doubt that if today the railways were to start from scratch, their capital structure, volume and direction of investments would be different.

3. The only true value of an investment is its ability to generate income. Any investment made in the historical past which cannot be made profitable, according to the principle that by-gones are by-gones, can hardly be treated as a relevant factor in determining the present profitability of any industry. Relating net operating revenue to the gross earnings avoids this error.

The net operating revenue of the railways in 1952 was $81,299,375—7·3 per cent of gross railway earnings. This estimate is if anything, conservative, as it allocates all general overhead expenses of the railway companies to railroad operations only. This return on gross earnings of 7·3 per cent can be contrasted with 4·4 per cent for the trucking industry. (Complete data in appendix I and appendix J.)

The rate of return of the railways has declined since 1952; there are no reasons to suppose, however, that the trucking industry, which today is subject to the same general economic conditions, has been able to maintain the same rate of returns over costs in 1954 as in 1952.

No financial statistics of the trucking industry later than 1952 are available as we have already pointed out. If, however, the domestic sales of new commercial vehicles are accepted as an index of the prosperity of the trucking industry, the conditions must have considerably deteriorated.

The following figures for domestic retail sales of new commercial vehicles are given in the Bank of Canada's statistical summary for March 1953 (p. 86):

Commercial vehicles sales

Year	Domestic Retail Sales '000
1952	108·7
1953	103·4
1954	72·0

It is to be noted that the decline in new commercial vehicle sales since 1952 has been 33 per cent.

*Released in October, 1954.

In a study entitled An Analysis of the Market for Commercial Vehicles and Farm Tractors, 1954-1960*, the Economist's Office of Du Pont Company of Canada Limited concludes:

> There are signs, however, that a competitive balance is beginning to make an appearance in the transportation industry. Recent reports that the railways are reducing freight rates on certain lines in an attempt to regain business from the trucking industry, and the newly-introduced "piggy-back" technique whereby loaded truck-trailers are carried by rail over the longer hauls, would suggest that the period of one-sided competition may be drawing to a close. Furthermore, railroad equipment in this country is being rapidly modernized, horse-drawn vehicles have largely disappeared from the highways and the trucking industry appears to have acquired almost all the categories of traffic which it can economically handle. Existing evidence therefore suggests that the growth in penetration which has been a dynamic factor in the past growth of the trucking industry may well become less important during future years.
>
> The analysis presented above indicates that the two forces which have been largely responsible for the rapid increase in the ownership of commercial vehicles during the past decade, i.e. growth of the economy and improving market penetration, will not be present to a comparable degree over the remainder of the decade.

An indication of an industry's ability to withstand a strong competition impact is its debt structure. In this respect the trucking industry is extremely vulnerable. The Bank of Canada* gives the following figures for the percentage of domestic commercial vehicles sales financed through sales finance companies:

Year	% financed
1952	43·9
1953	42·2
1954	38·9

The actual percentage of equipment financed on a fairly short-term basis, at high interest rates, is probably much higher. The figures given above do not include bank loans, personal finance companies' loans, personal loans, chattel mortgages, etc. Thus, it will be seen that a collapse, or any serious reverse, in the fortunes of the trucking industry would not only impair the solvency of the small operator, but also would affect adversely the credit institution, and to a large extent affect adversely the credit institutions, and to a large extent motor vehicle producers. At some of the producers (for example International Harvester Company of Canada Limited) have been suffering reverses due to the fall in the demand for agricultural equipment, the overall employment effects of a decline in trucking industry will extend beyond the industry itself.

This financial vulnerability of the trucking industry caused by the substantial percentage of stort-term high interest loans is in contrast with the enviable railway position as far as debt-financing is concerned. To give an example: as of March 1955, the CNR's government guaranteed debt was given at $910.5 million, all long-term low interest debt. All issues placed in 1950 and later, by which CNR's re-equipment and expansion has been financed, carry a rate of interest lower than 3 per cent.**

*Statistical Summary, March 1955, p. 86.

**Source: Bank of Canada Statistical Summary, March, 1955.

The following conclusions are evident from the above survey of the relative position of the trucking industry and of the railways:

1. Due to the smaller size of the firm and the small volume of earnings, trucking firms could have had only a very limited opportunity to build up the reserves which could see them through the enforced period of re-adjustments.

2. The profit position of the trucking industry in relation to turnover is not larger, but smaller than that of the railways.

3. Because of its debt structure, trucking is a very vulnerable industry. The interest paid on capital borrowed to finance re-equipment and expansion is higher than in most industries, whereas the railways, due to their size, and also, in the case of C.N.R., due to government guarantees, can obtain long-term credits on low rates.

4. A high percentage of new equipment is financed by loans.* The repayment of loans and interest, therefore, comes within the category of overhead or fixed charges. High overheads, due to the unfavourable financial structure of the industry have always the same result—a decline in traffic leads to a larger than proportionate decline in revenues.**

The railways have consistently used the argument that overheads form a high proportion of their total costs.

Unfortunately for our industry, this applies to truck operators as well.

PART VI

THE EFFECT OF WIDE-OPEN AGREED CHARGE RATE-MAKING ON THE TRUCKING INDUSTRY

Our examination of the financial strength of the trucking industry as compared with the railways, which appears in the previous section of this submission, leaves no doubt that the financial strength of the individual truck operator is less than that of the railways. The individual truck operator is not more prosperous than the railways, but less so.

Let us now examine carefully the probable impact of wide-open agreed charge rate-making on the trucking industry. Let us consider if a wide-open agreed charge onslaught would have isolated effects on the fortunes of individual truck operators whose fate might lie outside considerations of the public interest, or if, instead, large sections of the industry would be affected to the consequent detriment of the public interest.

As any one can appreciate from a study of the report of the Royal Commission on Agreed Charges, the evidence of Mr. S. W. Fairweather, the C.N.R.'s vice-president of research and development, was given great weight by the commission. There was one important aspect of a wider form of agreed charge rate-making than now exists that was the subject of evidence by Mr. Fairweather—the actual number of additional agreed charges to be put into effect. His evidence, to be found at page 1430 and 1431 of the royal commission transcript, was as follows:

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* Replacements of equipment (vehicles etc.) at fairly short intervals are characteristic of the industry.

**It may be noted in this context that the trucking industry has not profited so far by any government assistance to obtain the capital at more favourable terms, a help extended through guaranteed loans to the C.N.R.; through Central Mortgage and Housing Corporation to housing, etc.

The COMMISSIONER: Then, you seem to foresee a very great number of these agreed charges if you are given what you are asking for?

Mr. FAIRWEATHER: I do.

The COMMISSIONER: We were told the number existing now in the United Kingdom which is a large number. I have forgotten exactly what it was. Do you remember, Mr. O'Donnell?

Mr. O'DONNELL: Three thousand to four thousand, Mr. Blee said.

The COMMISSIONER: You envisage something of that dimension, I suppose?

Mr. FAIRWEATHER: I envisage under Canadian conditions probably even more than that.

With that point established—"probably more" than three to four thousand agreed charges upon passage of the legislation before this committee—let us examine the development of agreed charge rate-making from 1938 until the present time. This examination is necessary to determine if the new development—"probably more" than three to four thousand agreed charges—will be of far-reaching consequences compared with developments to date.

By the end of 1954, the total number of agreed charges made by the railways since the passage of the Transport Act in 1938 was 80—80 agreed charges as compared with "probably more" than three to four thousand. We are led to wonder how the Royal Commission on Agreed Charges found itself able to report (page 26) that ". . . no legislation concerning railways, and, more specifically, the legislation of the kind now contemplated, can cause it (the trucking industry) vital damage".

Of the 80 agreed charges made since 1938, 51 were in force on December 31st, 1954. There were 202 shippers involved and the railways' gross revenues from these agreed charges amounted to $20,627,820. A number of them were transcontinental agreed charges to meet the competition of ships carrying products from other countries to Vancouver. Thus, not all of the $20,627,820 was revenue lost by the trucking industry. There is no breakdown available regarding the division of revenue as it affects the movement of freight by ship or truck. A substantial portion of the $20,627,820 was obviously revenue derived from traffic which had gone by truck.

The highest estimate we have ever seen of the annual gross revenues of the trucking industry is that of the Railway Association of Canada. They give the trucking industry's gross as $316,000,000, more than a third higher than the 200 million-a-year estimate of Canadian Trucking Associations.

Translate 51 agreed charges, giving the railways a gross revenue of $20,627,820 into "probably more" than three to four thousand agreed charges, and consider that development—forecast in Mr. Fairweather's evidence—in relationship to present estimated trucking industry gross revenues of $316,000,000 per year, and you will understand why Canadian Trucking Associations is before this committee expressing the gravest misgivings regarding the impact of the legislation.

In our letter, dated March 31st, to the Minister of Transport, Canadian Trucking Associations' President William C. Norris estimated that one-third to one-half of the trucking industry will be wiped out under the proposed legislation—if the evidence which the commission received is accurate. The evidence we have in mind is that of the CNR's vice president of research and development. In the face of that evidence, Mr. Norris's prediction of one-third to one-half of the trucking industry being wiped out by wide-open agreed charge rate-making is no exaggeration but, on the contrary, a moderate estimate.

Any one who has read the chapter on agreed charges in the 1951 report of the Turgeon Royal Commission on Transportation (pages 88 to 95) has seen there the confirmation that Mr. Norris was not exaggerating.

That report was the work of three eminent Canadians whose investigation into the transportation problem was the most exhaustive in Canadian history. The Royal Commission on Transportation held hearings for 138 days, including regional hearings in every province in Canada; furnished over 24,000 pages of evidence and argument; received 143 formal submissions; and examined 214 witnesses. The commission's report contained a searching and exhaustive analysis of the reasons why legislation which, in substance, is now before this committee should not, and could not, be recommended to the government of Canada. We intend to review in detail these findings of the Turgeon Royal Commission on Transportation. We believe that with the life of the Canadian trucking industry at stake we will not only have the indulgence but the interest of this committee in regard to an adequate examination of the analysis which the Turgeon Royal Commission on Transportation made regarding the impact of wider agreed charge provisions on the trucking industry.

Let it be clearly understood that we are not using the report of the Turgeon Royal Commission on Transportation to attack the report of the Turgeon Royal Commission on Agreed Charges. Although there appears to be a basic inconsistency in the findings, it is not that aspect of the situation in which we are interested. We have already stated in this submission that we are not here to attack the principle of the legislation which has been recommended by the Royal Commission on Agreed Charges. It is only in regard to the question of whether the protection of the public interest requires some amendment of the legislation before you—an amendment which must not be so far-reaching that it will do violence to the object of "setting the railways free"—that our examination of certain findings of the Royal Commission on Transportation is pursued. In short, what will be the impact of the legislation before this committee on the Canadian trucking industry? What were the findings of the Turgeon Royal Commission on Transportation on that question?

The report of the Royal Commission on Transportation, issued on February 9, 1951, summarized the CNR's position on the legislative amendment which the railway had sought from the commission—a legislative amendment which, in substance, is now before this committee—in language (page 91), as follows:

> The position of the Canadian National Railways therefore is (1) that there is need of rational and reasonable control of the agreed charge practice, and (2) that the railways' requested amendment would undoubtedly place in its hands an extremely potent weapon capable of driving the trucks out of business in what is referred to as the "competitive" zone.

On pages 94 and 95 of the report of the Royal Commission on Transportation, the views of the commission are summed up, as follows:

> The problem before the commission is simply this: Should the railways be given an extraordinary weapon which might have a serious effect on the trucking industry far beyond that of "meeting" its competition?
>
> The agreed charge if widely used could bind shippers to the railways for unrestricted periods of time by an agreement which would exclude the trucks from participating in the traffic of such shippers.
>
> This might prevent the growth of a form of transport which may be of great value to the commerce of the country. Two instances of the value of the trucks to Canada have occurred in recent years, the first during the last war, and the second during the recent railway strike.

Any weapons which might seriously endanger or bring about the elimination of the trucking industry must be guarded with close restrictions.

It is to be borne in mind that although their rates are regulated, considerable freedom is left to the railways in regard to competitive rates, and this freedom should not be impaired substantially. The object is to permit the railways to meet competition, not to destroy or eliminate it.

The danger in the proposed amendment lies in the power it would give to stifle competition. The Act as it now stands gives to the railways an extraordinary power (one which has not been accorded to the railways in the United States) and one which should not be extended.

Then follows the paragraph of "Conclusions" on page 95 of the 1951 report. Conclusion number three is reproduced at page 25 of the report of the Royal Commission on Agreed Charges. Conclusion number 3 of the 1951 report is, in fact, the only conclusion cited in the 1955 report. It is as follows

The present Act has not yet had a fair trial. It was first introduced in 1937 and enacted in 1938, when economic conditions were vastly different from those existing today. Then followed the period of the war and the 'freezing' of rates until September 15, 1947. Since then the country has enjoyed a period of comparative economic prosperity which has perhaps made extensive use of the agreed charge unnecessary.

But numbers 1 and 2 of the 1951 "Conclusions" should not be relegated to the limbo of lost words—they are of vital consequence in any examination of the views of the Royal Commission on Transportation regarding the impact of agreed charges on competitors of the railways. Let us look at these conclusions. Conclusion number 1 states:

One of the main principles of railway rate making is that a railway must charge equal tolls for like services. Parliament in authorizing the agreed charge created an exception to this general rule to enable the railways to meet the unregulated competition of trucks. Nevertheless in enacting the provisions of Part V of the Transport Act it took great care to surround the exceptional power which it had granted with restrictions to prevent the improper use of agreed charges.

Conclusion number 2 states:

It appears obvious that parliament did not intend the agreed charges to be a weapon to destroy or eliminate competition but rather to enable the railways to meet competition. This is clear from a reading of section 35(1):

...the board shall not approve such charge if, in its opinion, the object to be secured by the making of the agreement can, having regard to all the circumstances, adequately be secured by means of a special or competitive tariff of tolls under the Railway Act or this Act.

There cannot be the shadow of a doubt that the Royal Commission on Transportation, following its extensive hearings in 1949 and 1950, and following such private investigation as it may have made of the problem, concluded that the impact of a wider form of agreed charge rate-making would be such that it might destroy or eliminate the trucking industry: "Any weapon which might seriously endanger or bring about the elimination of the trucking industry must be regarded with close restrictions"; "The object is to permit

the railways to meet competition, not to detroy or eliminate it"; "It appears obvious that parliament did not intend the agreed charges to be a weapon to destroy or eliminate competition but rather to enable the railways to meet competition". Three times on one page of the 1951 report, the Royal Commission on Transportation sounds those warnings as to the impact on the railways' competitors of proposed legislation which, in substance, is the legislation now before this committee. And let us note the words: "The danger in the proposed amendment lies in the power it would give to stifle competition".

It is to be noted, also, that the Royal Commission on Transportation, quite apart from how it regarded the power which would be put in the railways' hands under such legislation as is now before this committee, looked upon the present agreed charge legislation as giving the railways more than ordinary competitive powers. On page 92 of the 1951 report we find, at line 37, the statement: "The point involves a question of whether the procedure should be simplified when the power granted to the railways is such an extraordinary one." Six lines later, after describing the present agreed charge legislation, the Royal Commission on Transportation states: "This extraordinary procedure should be accompanied by the publicity and safeguards now required by the Transport Act." And, again, on page 95 of the 1951 report it is stated: "The Act as it now stands gives to the railways an extraordinary power..."

PART VII

BILL 449:

AMENDMENTS PROPOSED BY CANADIAN TRUCKING ASSOCIATIONS

To use the words of the Royal Commission on Transportation, "an extraordinary weapon" is about to be placed in the hands of the railways by virtue of the legislation before this committee. It is a weapon whose danger "lies in the power it would give to stifle competition"—again the words of the Royal Commission on Transportation. It is "an extraordinary weapon which might have a serious effect on the trucking industry far beyond that of 'meeting' its competition." This weapon, according to the railway evidence to the Royal Commission on Agreed Charges, is to be used, when the proposed legislation is passed, at a rate which will bring into operation probably more than three thousand to four thousand agreed charges in place of the eighty agreed charges made from 1938 until the end of 1954. We respectfully submit that there is no provision in the proposed amendments to the Transport Act which safeguards the public interest in the event that three thousand to four thousand agreed charges set in motion the destruction or elimination of the trucking industry.

Canadian Trucking Associations submits that it is of vital importance from the standpoint of the trucking industry and, what is more important, from the standpoint of the public interest, that there be included in the proposed Section 33, subsection (1) the statutory right of any 'for hire' truck carrier, or association of 'for hire' truck carriers, to complain to the minister that the agreed charge is discriminatory or places its business at an unfair disadvantage. In accord with the provisions of Section 33, subsection (1), in the amended form before you, the minister may then, if he is satisfied that, in the public interest, the complaint should be investigated, refer the complaint to the board for investigation. If the board, after a hearing, finds that the effect of the agreed charge upon the business of the complainant is undesirable in the public interest, the board may then make an order varying or cancelling the agreed charge complained of, or may make such order as in the circumstances it considers proper.

One may say: The Minister of Transport is a very busy man and Canadian Trucking Associations represents 7,000 truck operators; every time an operator is hurt by an agreed charge he will want to appeal to the minister.

Canadian Trucking Associations is as solicitous regarding the responsibility of the Minister of Transport as anyone else. We would prefer a provision in the legislation which would remove from his shoulders the responsibility of having to consider an appeal from a truck operator against a railway agreed charge. But we do not intend to make a submission to the committee along those lines. If we suggested the appeal go directly to the Board of Transport Commissioners, we would be open to the accusation that we were trying to cut down the freedom which the Royal Commission on Agreed Charges says the railways must have. The commission recommends that this freedom be provided by eliminating the present requirement that an objection to an agreed charge contract, made by a shipper or carrier (not, at present, a truck carrier), must be the subject of a hearing by the Board of Transport Commissioners. In the legislation now in effect, an objection is made directly to the board under section 32, subsection (7). The board's hearing, following this objection—an objection from a shipper, any representative body of shippers, or any carrier—determines if the agreed charge will be approved. As recommended by the commission, this provision in section 32 is to be eliminated. Thus, as part of the process of setting the railroads free, the only hearing by the Transport Board will be one on reference from the Minister of Transport under section 33, subsection (1), a provision which has always been in the Transport Act. As the report of the Royal Commission on Agreed Charges points out (page 31): "No action has ever been taken under it although it has formed part of the statute since 1938."

It is our earnest hope that we will not be met here with the argument used during the regime of another Minister of Transport—that it was Canadian Trucking Associations which, in 1937 requested that truck operators be excluded from the Transport Act and that if the government had not implemented that recommendation in the amended Transport Act of 1938, truck operators would be in the Act and thus, presumably, in a position to be heard in respect to railway agreed charges.

We think that there is a danger that the approach of "you didn't want to be in the Transport Act, so we took you out" might be interpreted affirmatively: "if you were in the Transport Act, you might be looked after in respect to agreed charges." It is crystal clear on the record that the reason the trucking industry did not want to be in the Transport Act was that the Act originally provided for federal control of extra-provincial trucking. Why our representations of 1937 in respect to control of trucking should be laid at our doorstep in relation to agreed charges—and this has not happened during the regime of the present minister—is a question whose answer escapes us.

It is well known that the trucking industry has supported provincial control of all highway transport, including the government bill number 474—the Motor Vehicle Transport Act—implemented last year after the government had announced its conclusion that a divided jurisdiction over highway transport would not be in the public interest. Thus, extra-provincial trucking, in addition to intra-provincial trucking, was placed under the provincial transport boards in provinces which have desired the control. The control remains with the provinces and is not divided although, of course, the jurisdiction over extra-provincial trucking remains federal, as confirmed by the Privy Council last year.

We are certain that there is no legal barrier whatever to the statutory right being accorded truck carriers, or an association of truck carriers, to appear before the Transport Board in respect to a railway agreed charge—if

the minister is satisfied that reference of the truck carrier's complaint to the board is in the public interest. In our respectful submission, the argument that you have to be under federal jurisdiction to obtain recognition in the Transport Act would, if applied to all industries in relation to all federal boards, reduce the functions of these boards to an absurdity. The provincial transport boards, dealing with the problem in reverse, have never made any great issue of it. They have experienced no difficulty in their recognition of the right of the federally-controlled railroads to appear at hearings at which the provincial board considers the application of a truck operator for new or extended highway operating rights. In this respect, the railroads have the right to be heard by provincial transport boards in the five provinces—Quebec, Ontario, Manitoba, Saskatchewan, and British Columbia—in which 93 per cent of the gross revenue of the trucking industry is earned. In these provinces, where control over the trucking industry is exercised by requiring proof of public necessity and convenience before new or extended operating authority is granted to a truck operator, the railroads are free to oppose the application on the ground that they will be adversely affected.

This brings us to what we regard as the discriminatory aspect of the legislative amendments before you. The discrimination, we submit, very clearly lies in the fact that other competitors of the railroads are to have the statutory right to complain to the minister that an agreed charge is unjustly discriminatory or places their business at an unfair disadvantage. These other competitors of the railroads are to enjoy consideration under the legislation to this extent: that the minister may, if he is satisfied that in the public interest their complaint should be investigated, refer the complaint to the board for investigation. These other competitors of the railroads will then be in the position that if the board, after a hearing, finds that the effect of the agreed charge upon the business of the complainant is undesirable in the public interest, the board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it considers proper.

These other competitors of the railroads are the water carriers. They are singled out for preferential treatment in section 33, subsection (1) which states that "any carrier or association of carriers, by water or rail...may complain to the minister...". The water carriers are competitors of the railroads. Why are they in section 33, subsection (1) when the trucking industry is not?

May we respectfully point out that the water carriers are competitors of the trucking industry as well as of the railroads. Our all-year-roun extra-provincial truck operators on the Montreal-Toronto run—"federal carriers" as they are now designated in federal legislation—experience a reduction of freight volume every year during the shipping season. Their rate levels are depressed by the lower rates of the steamship carriers. That is competition. We have never complained to anyone about it. We are not complaining about it now. But the proposed section 33, subsection (1), by making it possible for the water carriers to come to grips with a railway agreed charge—possibly to the extent that the agreed charge would be cancelled—gives to those federal carriers a competitive advantage that would be denied truck operators; not only truck operators but, in the case of Montreal-Toronto truck operators, federal carriers over which parliament has jurisdiction.

The essential and over-riding consideration remains: Whether it is in the public interest that any truck operator, or an association of truck operators, should have the statutory right to submit to the Minister of Transport that a railway agreed charge, because of the effects on the operator or operators, requires investigation by the Board of Transport Commissioners?

In the event of recognition of the trucking industry in section 33 (1) frivolous appeals from truck operators—and we hope that Canadian Trucking Associations would not be guilty of them—would fall by the wayside. There is no doubt in our minds on that score. We cannot believe that the committee has any doubt about it. If during the shakedown period following passage of the amended legislation difficulties in this regard are contemplated—I am talking about the fact that there are 7,000 truck operators and only a small number of water carriers, we submit that they will not be so great that they cannot be taken in stride by the government. The continued existence of adequate highway freight service for those shippers whose business, manufacturing, and industrial processes, postulate use of truck service is surely a more important consideration than the possible administrative difficulties during the initial period under the new legislation. If nothing is written into the Act to enable the minister and the Board of Transport Commissionners to take cognizance of the decimation of large sections of the trucking industry, tremendous damage may be done before parliament may be in a position to enact the amendment which we are now requesting.

There are two phases of the amendment which we request. First of all, we ask that the three-month waiting period, mandatory before an appeal can be made to the Minister of Transport regarding the effect of a railway agreed charge, be eliminated. Secondly, we request that there be written into the legislation the right of any truck carrier, or association of truck carriers, to make an appeal to the minister in regard to a railway agreed charge.

The question of the three-month waiting period is of greater importance to truck carriers than to water carriers. Suppose that agreed charges are made by the railways on the movement of goods between two cities and that the trucks are excluded in the contracts from any part of this movement or the rates are so low that the truck operators cannot meet them. All of this traffic shifts to rail. Not for long can truck operators, with the exception of a very few of the largest, withstand the impact of that type of an agreed charge. When one considers that the total gross revenues of the Canadian truck operator amounted to $44,000 in 1952 per company—$156,000 in the case of Group I carriers—it is quite easy to see that the three-month waiting period is impractical.*

I am quoting also the group 1 operators, because I do not want it to be thought that I am hiding behind the position of the small operators.

Hon. Mr. MARLER: When you say "the total gross revenues of the Canadian truck operator amounted to $44,000 in 1952...", surely that statement is incomplete.

The WITNESS: Yes. I should have explained that it is the total gross revenue of the average Canadian truck operator.

It does not take into account the limited economic resilience of the average truck operator. We therefore respectfully submit that it is in the public interest that the three-month waiting period be eliminated.

We submit that without violating the principle of setting the railroads free in regard to agreed charge ratemaking, the legislation before you should be amended to enable the Minister of Transport to consider the complaint of a "for hire" truck operator, or an association of such operators, that an agreed charge is unjustly discriminatory against it or places its business at an unfair disadvantage. If the minister is satisfied that an investigation is in the public interest, the complaint may be referred to the Board of Transport Commissioners.

Our proposed amendment is as follows:

33. (1) Upon publication of an agreed charge

(*a*) any carrier, or association of carriers, by water or rail, or any motor vehicle transport operator, or association of motor vehicle transport operators, or

(*b*) any association or other body representative of the shippers of any locality

may complain to the minister that the agreed charge is unjustly discriminatory against it or places its business at an unfair disadvantage, and the minister may, if he is satisfied that in the public interest the complaint should be investigated, refer the complaint to the board for investigation; if the board, after a hearing, finds that the effect of the agreed charge upon the business of the complainant is undesirable in the public interest, the board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it considers proper.

I appreciate the indulgence of the committee while I read such a lengthy presentation.

The CHAIRMAN: Thank you very much, Mr. Magee. Are there any questions?

Mr. HAHN: Is it understood that the appendices will be printed in our minutes of proceedings?

Mr. LANGLOIS: Is it really necessary?

The CHAIRMAN: It would be a very expensive job.

Mr. CAVERS: There must be 25 pages in the appendices.

Mr. HAHN: I do not think the members will make very much sense of the brief unless the appendices are included for reference.

The CHAIRMAN: What is the wish of the committee?

Mr. HAHN: I move that the appendices be placed in the record.

Mr. LANGLOIS: Is it not a good plan to practice economy?

The CHAIRMAN: Is there a seconder to Mr. Hahn's motion?

Mr. GREEN: It has always been the practice of this committee to have a printed record of what has been done. I think that in order to understand the brief it is necessary to have the appendices printed with the main part of the brief. I realize that it is quite long, but I suggest that in order to get a complete picture this should be done because we will not have a complete picture without the appendices. This is a question which may be of considerable interest to the country for some years to come, and I think it would be worthwhile, when we get the larger part of the statement, to get the whole thing.

The CHAIRMAN: Is it the wish of the committee to have the appendices printed?

Carried.

Are there any questions you would like to ask Mr. Magee?

By The Hon. Mr. Marler:

Q. I would like to ask Mr. Magee one or two questions. In the last part of his brief Mr. Magee argued in effect for the right for an individual motor vehicle transport operator, or an organization of such operators, to complain to the minister that an agreed charge is unjustly discriminatory against it, or places its business at an unfair disadvantage.

I would like Mr. Magee to give me some cases in which he believes that the trucking operator ought to have the right to complain. Perhaps he might indicate what might be the grounds of complaint against an agreed charge.—A. Mr. Minister, under the proposed Act—

Mr. NICHOLSON: Mr. Chairman, we cannot hear. I wonder if the question and answer could be repeated.

The CHAIRMAN: If you would move a little closer you could hear better. There are lots of seats up front.

Mr. LANGLOIS (*Gaspe*): The witness might stand up.

The WITNESS: Mr. Minister, it is our submission that the provisions in section 33, subsection 1, which are there now would be the general grounds on which a motor vehicle transport operator or an association of motor vehicle transport operators would take an appeal to you on a railway agreed charge. In the first place, it is the provision that is to apply to the water carriers and secondly we have tried to leave the proposed legislation that has been recommended by the commission as intact as possible in line with our submission that we are not attacking the principle of the legislation which is before the committee. I do not know whether or not that is a satisfactory answer to your question.

Hon. Mr. MARLER: I think perhaps you do not go far enough, but I will assume, for example, that the railways have just concluded an agreement—

Mr. NICHOLSON: Although the witness can hear you I suggest that in this large room those who have questions to ask or answers to give should speak up. There are not enough chairs at the head table for everyone.

Hon. Mr. MARLER: I am sorry if the hon. member could not hear. I will speak loudly enough so that I am sure he will hear.

By Hon. Mr. Marler:

Q. Mr. Magee, the question I would like to ask is this: assuming that the railways have just come to an agreement with certain shippers with regard to an agreed charge, the agreed charge is published and under your proposal a motor vehicle transport operator operating in the territory affected by the agreed charge then complains to the minister that the agreed charge places his business at an unfair disadvantage. Now, will you give me an example in which the agreed charge places the business of the transport operator at an unfair disadvantage for any other reason than that the charge proposed by the railways is less than the charge which has been followed by the operator?—A. Yes, I will try to do that, sir. I am afraid I will have to go a little further on the subject of agreed charges than I intended, Mr. Minister, in order to answer the question.

An Hon. MEMBER: Louder, please.

The WITNESS: I was saying that I will have to go a little further in describing our position on agreed charges in answering the question than I intended to before the committee because one of the chief aspects of the agreed charge which the trucking industry feels is unfair and which it feels puts into the railways hands a weapon which we will not be able to wield for years, in my opinion, is the restrictive clause in the agreed charge which enables the railways to tie up any percentage of traffic—often 100 per cent—and it might be in a case like that, Mr. Minister, that a truck operator or our association or one of the other trucking associations, might make an appeal to you on those grounds. If you felt it was in the public interest to refer that appeal to the transport board it might result in the board either dismissing the matter or varying the agreed charge to enable the trucker to compete for some of the traffic.

It is quite true, and I think I should point this out, Mr. Minister, that there is no legal barrier to a truck operator making an agreed charge; none whatever. It is equally true that there are no agreed charges in effect by the trucking industry with a restrictive clause which says that a shipper must send a certain percentage of his traffic by truck in exchange for which the truckers would lure the signing of a contract by lower than normal rates. We do not have the economic resources to do that, sir. I think it would be many years before any but the very largest trucking companies ever would. We feel that is a weapon—an extremely powerful weapon—in the hands of the railways that we certainly cannot compete with on equal terms.

Mr. MONTGOMERY: If the truckers are free to make agreed charges and if you agree with the shipper on a charge that is considerably lower than the charge that has been authorized by a provincial transport board have you got to go back to the provincial board for approval of that rate?

The WITNESS: In the provinces where there are rate regulations, whether it is the fixed rate of Manitoba or Saskatchewan, or the filed rate of British Columbia or Quebec, we cannot vary our filed rates without the permission of the board. That is an offence under the Act in those provinces. There is contract trucking in which truckers may have some common carrier operations and they may have an operation under contract with a certain shipper but there is nothing in those contracts in existence today—this was discussed before the royal commission on agreed charges—that ties up the shipper to the trucker by requiring that the shipper send 75 per cent or 85 per cent or 100 per cent of his traffic by that truck operator in order to get the rates under the contract. There was evidence produced before the royal commission on agreed charges—not by ourselves, but in one province, British Columbia, by the superintendent of motor carriers of the provincial regulatory body, the motor carrier branch—that there were no contracts in effect in that province where the truck operators had a provision which said that so much traffic must be sent every year, or for whatever period it might be, by that truck operator. We have no economic resources which enable us to make that kind of rate and that is our dilemma when we are left some of the traffic—there is one under discussion now with the packing houses and I believe it provides that 90 per cent of the traffic will go by rail, but it may be very probable that the rates which are made in that agreed charge will be so low that we cannot meet them even on the 10 per cent of the traffic that remains.

Hon. Mr. MARLER: That is not all 90 per cent—it is 90 per cent moving between the two points.

By Mr. Cavers:

Q. In the province of Ontario there are no regulatory provisions with regard to charges at the present time; is that right?—A. Yes, that is right, sir.

Q. And is it proposed to set up a provincial transport board in the province?—A. Yes sir.

Q. When is that to be done?—A. I do not know how soon that is going to take place. I will consult my associate, Mr. Goodman, who arrived here only this morning and find out the latest information on the subject, but it is proposed to remove from the Ontario municipal board the responsibility for hearing applications for truck permits and to place those hearings under an Ontario highway transport board.

By Mr. Marler:

Q. As it is presently constituted the Ontario Municipal Board only have the power to deal with the granting of the application?—A. Yes.

Q. The granting of the particular type of licence would be given and the route over which they travel?—A. Yes.

Q. They have nothing to do with charges?—A. There is no rate regulation in Ontario as yet. The Automotive Transport Association of Ontario has been making submissions to the government of Ontario for some time now in company with the Canadian Industrial Traffic League, the Canadian Manufacturers' Association Transportation Department, the Hamilton Chamber of Commerce and the Toronto Board of Trade. All these organizations have been making submissions to try to get rate regulation into effect in Ontario. Whether it is going to come under the new regulatory setup I cannot say. I will obtain the answer.

Mr. LAFONTAINE: What about Quebec? Are there any regulations?

By Mr. Herridge:

Q. Has the witness any idea what percentage of the trucking industry services is in the nature of feeders and what percentage is competitive?—A. I am afraid it is impossible to say what percentage of the traffic is traffic which is being hauled by the truck operators and fed to the railways. There are no statistics on that subject. As I explained in our submission one of our biggest problems at the moment is statistical information and ever since I have been with this association, since 1947, we have been working with the Dominion Bureau of Statistics trying to clear up that problem. I do not think I could answer a question like that for a couple of years yet.

By Mr. Barnett:

Q. Referring to page 42 of Mr. Magee's brief, after several pages of documentation he reaches the conclusion—and I am quoting—

> We submit that a fair estimate is that Canadian truck operators compete within a 15% to 20% sector of the railways' total revenue tonnage volume.
>
> The railways, by contrast, are competing with the trucking industry over almost the whole range of the truck operators' business.

I was going to ask Mr. Magee has he had any documentation for that rather sweeping statement because it does appear to me that it is closely related to the words which occur at several places in the brief that the effect of this legislation would be to so adversely affect the trucking industry, or a large section of it, as to wipe it out. It would appear to me that the committee should have something more substantial than just that one brief reference to the area in which the railways are competing with the total volume of business of the trucking industry in order to have a complete picture?—A. Mr. Chairman, except for the areas in which there are no railway operations and in which the trucks are supplying the only freight transportation service, the railways are competing with us over the whole range of our traffic. For example, on the East-West or on the West-East truck haul between central Canada and the four western provinces which is being competed for by the railroads either on the basis of service, or commodity rates, or competitive rates or agreed charges, the whole sector of our traffic is subject to attack at any time. That is a competitive factor with which we live. The Toronto-Montreal haul is an example. The loss of revenue which we have suffered there since the railroad competitive rate cuts of September 1954, as I mentioned in our submission, have amounted to about 40 per cent according to the reports the operators have given us. Obviously the traffic those operators haul is all potential railway traffic. To be fair I have

to reverse it, of course, and say that within the sector in which we operate—we estimate it would be between 15 to 20 per cent of the manufacturers and miscellaneous—within that sector all of the railroad traffic there is potentially subject to movement by truck if we can make our service and our rates attractive enough to the shipper.

By Mr. Cameron (Nanaimo):

Q. You gave us here an estimate of the sectors estimated in tonnage volume. Now, can you give us any idea as to the relative revenue value of the two sectors to which you refer? For instance, how does the revenue value of the 15 to 20 per cent on which your people can operate and the total revenue value of all freight carried compare? Have you any ideas about that?—A. That is where this theory of the truck taking the cream of the traffic comes in because that is traffic which is rated higher than normal. Now as the equipment of the trucking industry improves with technical advances, the type of trailers we have, motive power—and I suppose gas turbines will be coming in some day to replace the type of engines we have now—we will be able to operate in other sectors of traffic I suppose in which we are not able to operate now. Based on our operating cost that is the only sector of the traffic in which we can operate at the present time, subject to some exceptions which are made in the brief regarding petroleum haulage in the west and certain things like that.

Q. But you have no idea, Mr. Magee, as to what is the ratio in traffic value between the 15 to 20 per cent in which you compete and the total freight field?—A. I have not at the moment. I will undertake even if I have finished before the next meeting of the Committee on this subject to see if we cannot make some study of this which will enable us to give you an answer to that question. I am sure that I can.

By Mr. Byrne:

Q. I have a quotation from the Railroad Association of Canada. They have an estimate on ton miles of revenue and they state that the truckers were carrying one-eighth as much traffic as the railways and earned more than one-third as much revenue. They give it as $980 million for the railroad and $354 million for the trucking association. That represents about one-eighth of the traffic.—A. With respect, Mr. Chairman, that figure of $354 million, the previous figure of $316 million gross revenue of the industry which I quoted and our estimate of $200 million a year are all nothing more than informed estimates. The Railway Association is in no better position than the Canadian Trucking Associations, because of the lack of statistics, to produce any concrete conclusion as to the total gross revenue of the trucking industry. That is the first time I have heard the figure of $354 million mentioned, and I would certainly not be able to anwer the question.

Q. I suppose they have the same right as yourselves to make an estimate. —A. Of course. We are going to start a bulletin soon.

Q. You have cited five different types of traffic. I think it was in manufactured goods that you compete in any way with the very large traffic in wheat, that is export wheat, from Eastern Canada. When you are comparing the actual traffic and talking about 30 per cent of the actual revenue would you not agree that if you were in that great business of marketing wheat you would find quite a difference in revenue at the end of the year?—A. I want to be very careful here. I am not trying to avoid the question but if you would let me have the bulletin I would like to study it for a few minutes before replying.

Q. That is all right. I notice there is one part of your argument in the brief where you say that the trucking industry showed itself important in

two respects within the last few years. One, of course, was during the Second Great War. But do you think that it is a good argument to assert that we have a standby in case the employees of the railway companies decide to strike for better conditions?—A. I think our only reference to the railway strike came by way of mentioning that in a quotation from a report. I want to make it quite clear that I was not trying to "take a dig" at the railway unions or any situation which they may feel themselves faced with in regard to the management of the railways. The strike occurred. We were not tied up. There was a job to be done and we did it to the best of our ability. I do not see what else we could have done in the circumstances. I think that one good thing which came from it in regard to members of parliament was that because we were able for many days to improvise emergency transportation services they were able to come here and deliberate with some confidence whereas if there had been no trucking there is no doubt a very serious situation would have arisen.

I trust we have not been unfair in any reference made to the railway strike. That certainly was not our intention. It looked like a lot of traffic for a time but I want to say that what happened to our equipment during that strike cost us a very great deal of money for months afterwards. We ran our vehicles by day and night and we paid dearly for it as a result. Our normal shipments, for example, had to be interrupted. They could not be handled because we had more important commodities—drugs, medical supplies, food and so on to handle. Moreover, we had no system of embargoes imposed by the authorities which removed from our shoulders the problem of dealing with our own customers and which would have enabled us to say "we cannot handle that because the government of some province has said 'no' ". We don't want another strike, I can assure you.

Mr. CAMERON: In that connection how far are the employees of the trucking industry organized in Trade Unions?

The WITNESS: They are strongly organized in the provinces of Ontario and Quebec. There is quite an organization of the employees in British Columbia, a slight organization I think in Alberta and I would say a very slight organization in Manitoba and Saskatchewan. In Ontario and Quebec, all of the provinces with regard to which I have given descriptions of the degree of organization, the union has made good progress.

The union which has organized our employees is the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America—A.F. of L.—and they have organized all of the large and medium sized operators in Ontario and Quebec. I think the strike we had a couple of years ago was evidence of the extent of the organization of our industry by the unions. Normally we have very good relations with them.

By Mr. Hosking:

Q. Do you not consider that the greatest problem of the economy of our country, due to its geographical size, is transportation?—A. Yes.

Q. Would not anything which lowers the cost of transportation be of benefit to all the people of the Dominion?—A. I think that that is one of the questions which we feel the Board of Transport Commissioners could decide if our amendment is granted. That might very well be the overriding consideration in their minds if the truck operators complained against an agreed charge finding coming before them.

Q. Take the case of the meat packers for instance—the reason for them signing this agreement is because they could get a cheaper method of handling their products, is it not?—A. I do not wish to give the impression that an agreement has been signed. Negotiations are now going on.

Q. If an agreement is negotiated it would give the meat packers a cheaper price in handling their products?—A. That is quite correct.

Q. Everybody who buys meat in Canada is going to benefit from such an agreement because they are going to get the benefit of lower transportation costs—transportation costs are a dead weight on top of the industry—and anything which would lower those costs would bring an advantage to everybody who buys meat, would it not?—A. I would have to answer that question in two parts if I may: the first part is that I do not know whether the agreed charge—the saving in the agreed charge—would be passed on to the public. Sometimes it has been passed on and sometimes not. Secondly, if the agreed charge is successfully negotiated by one of the major packers there is no doubt that all the rest of them will be forced into it.

Q. Because of the price competition?—A. That is right, and the truck operators who are handling that type of traffic will be in a difficult position because these are specialized operations requiring a very special type of refrigerator equipment. So I think the packers will have to consider what will happen at the expiration of the term of their agreed charge rates—whether the companies will go back to the old railway rates.

Q. But you would agree that this amendment is going to make for cheaper handling and therefore the public should get their meat at a lower price in the end?—A. It may do that.

Q. With respect to this agreement that they have between Toronto and Montreal, if they signed an agreement to handle this commodity that they are moving from Toronto to Montreal, would that not give, in the same way, all the buyers of those goods a better deal?—A. Yes, that might be. I want to make it clear that in regard to the rates, these are not agreed charges; these are competitive rates between Montreal and Toronto largely. The position of the trucking industry is that the railways should have the right to compete price-wise with the trucking industry. As to the damage which has been done to the Toronto-Montreal truck operators—we have placed no submission before the minister ever on that subject, on the very precipitious railway rate slashes in that regard. That to us is a matter of competition and it is something which we have to be prepared to meet. But with an agreed charge, there is no competition at all. When an agreed charge is signed with a shipper who says that one hundred per cent of his traffic will move by rail, the shipper can be penalized by the railways if he moves in any other form of transportation.

Q. Surely it only lasts for a certain period of time, and if we get a cheaper transportation charge by virtue of it, then it is a good thing.—A. If it wipes out all the truckers between two cities, I do not think it would be a good thing. As we have pointed out in our submission, the trucking industry has integrated itself in the economy now to the extent that there are very few shippers who can do without trucking services entirely; and it seems to me that when they have to have that type of service in addion to their rail service, it would be a bad thing for the public and for industry if it was to disappear. I might be right or I might be wrong; but what we are asking for is the right to have it investigated, and if we succeed in getting the amendment, then, if the Board of Transport Commissioners says that "you people are absolutely wrong," that it is not in the public interest to disallow this agreed charge, then that is it; we have had it, and we are finished with that type of trucking, and we have to take it.

Q. It seems to me that the condition would be exactly similar to that of the small truckers who made representations to me about the big truckers. To me it is analogous. I have to defend the position and the protection that

the big truckers have with regard to their being able to buy at wholesale from manufacturers. For example, they can buy their tires wholesale, and all sorts of things like that, and it puts them in a very favourable position in comparison to the small truckers who have to buy at current rates.

If we defend the big truckers against the small truckers, surely we can use the same argument with the railways as against the big truckers, because their positions are exactly analogous. You know and I know that a big trucker does not do business in the ordinary way. He can go to a manufacturer and say "We are going to buy so many vehicles plus tires", and in that way he is in a very different position from the small trucker who has to go to a local garage to buy a truck. Similarly in the case of repairs. The big trucker may get as much as forty-five per cent off parts because be belongs to the Association, whereas the little trucker cannot get that discount. They have made many, many representations against the big truckers, and it seems to me that the way you present your case is exactly similar as between the little and the big truckers, and the railways with respect to the big truckers.—A. I represent both the big and the small truckers, incidentally. There is no association within our group which arranges any deals for any truck operators, large or small, with regard to equipment.

Q. You do not need to do that.—A. You made some reference to an association, but we do not do that. Most of the 7,000 people that I represent here on behalf of the Canadian Trucking Associations are small operators. I am not trying to hide behind them, but that is a fact of life; they are the people who are paying their dues into our association, and they are the people we represent. And I say that out of 7,000 there are not more than 1,000 of that group—

Q. Your small truckers—and I shall ask about that—have to pay the top price for their trucks and for their maintenance and tires. They are not the ones you are representing in this brief.—A. Yes sir, we certainly are. We represent them.

Q. But their interest would be very small.—A. Their interest would be greater in comparison with the large truckers' interest for the simple reason that the large truckers have more resources left to take care of themselves for a little while under an agreed charge arrangement, whereas the small operator is going to be dealt a much more serious blow under this agreed charge.

We have had small truckers who have been put out of business because of agreed charges. There was the petroleum agreed charge in the west in 1952, for example; there were small truckers involved there. There were two or three very large companies, but the rest of them were small.

Q. I have not even had one of the small truckers speak to me about this.—A. Excuse me; would you mind telling me what province you are from?

Q. Ontario.—A. Ontario? Well, our association in Ontario has a very large number of small operators as members.

Q. Who would be affected by this?—A. Yes, who would be affected by this, and who would be vitally concerned by it.

Q. I have not heard of one.—A. That is why we are here today.

By Mr. Nicholson:

Q. I would like to ask a question or two of Mr. Magee. I wonder if he could tell us the total labour force represented by the trucking companies, the percentage of the workers who belong to unions, and also something about the hours of work and the daily wages in the organization.—A. It is a very difficult question to answer quickly. I would like to get an answer for you. Again, due to the lack of statistics in our industry, any estimate of the number

of employees is simply a guess. The total number of truck operators in Canada is 15,000, and most are small operators. The total number now reporting to the Dominion Bureau of Statistics is around 4,000. Therefore, since that is our only source of information, there is no way whereby we can tell you accurately the number of employees in the trucking industry without extending an estimate. We have made an estimate and we estimate around 70,000 employees in our industry. But it is subject to all the qualifications that I have just placed on it. Because of the multiciplicity of operators, I could not tell you the percentage of union as against non-union employees, but I think the percentage of unionized employees in Ontario and Quebec where the industry is the largest, would be very substantial. I shall try to get a more complete answer to your question and leave it with the chairman before these hearings are over.

By Mr. Hamilton (York West):

Q. I wonder from the practical standpoint if you could tell us just how this would affect the business of your members. The railways will now have three types of rates—say we have a rate of $3.75 and a competition rate may be offering $2.20. Now they come along with an agreed charge of $1.09. You have been faced with this other competition all along, and so long as the agreed charge contract is for a short period of time only are you not in a position to meet it as well?—A. We are not in a position to meet it because of the restrictive covenant of the agreed charge, and the power it has given to the railways to tie up a certain portion of the shippers traffic. It has gone as low as 55 per cent in an agreed charge which was made with Ford, and it has gone as high as 100 per cent on many of them. When it goes to 85 per cent, 90 per cent or 100 per cent, it no longer becomes a question of trying to compete on prices; it is just an academic discussion. We are out of the picture and there is nothing we can do about it.

Q. During the period when the contract is in effect, do you not have the opportunity then of attempting to bring your rates into line so that you will be able to offer something similar?—A. That is another difficulty, because the rates on the agreed charge contracts are usually so low we cannot meet them.

Q. You are really asking then on the basis of the national interest? Your agument is based on the fact that we need a trucking industry and we must maintain it no matter what the economic conditions may be. Is that what your argument is? Is that your argument as distinct, let us say, from asking from the public interest standpoint? In other words, from the public interest standpoint in the area in southwest Ontario it may be very advantageous to have this type of agreement, but you are saying that from the national interest standpoint we must maintain a trucking industry?—A. Yes, I certainly say that. I believe that between many centers where it is a more local problem under an agreed charge it could then certainly become a matter of public interest, but there might be only four or five trucking operators in many centers who are going to be put out of business by agreed charges.

By Mr. Hansell:

Q. Mr. Magee has spent some little time in his brief in respect to the precarious investment position of the trucking industry. That is to say, you had to meet certain finance charges, high interest rates and so forth, I do not believe you stated what the possible total investment of the trucking industry is at the present time. Have you any statistics on that?—A. The report of the royal commission on agreed charges contained an estimate of

the capital investment represented by the 15,000 operators who constitute the trucking industry and in the report on page 23 it says that these 15,000 operators represent a capital investment which may be estimated at somewhere between $250 million and $300 million.

Q. What proportion of that would you say is still owed by the trucking industry? I know this is so and there is no argument about it, that most of the small trucking concerns are financing their charges as they go along. Could you say what proportion of that investment might still be unpaid? Have you any idea? Perhaps it is not a fair question and perhaps you could only strike a guess.—A. I am afraid I could not give you an answer to that question.

Q. My next question was going to be, since you anticipate that there will be some losses of investment should the bill go through and the agreed charges become an actual reality, have you any idea what loss of investment that would involve? I know those questions would involve guesswork.

Hon. Mr. MARLER: They could not be anything else.

Mr. LANGLOIS (*Gaspé*): As a matter of fact, the agreed charges are in reality now.

Mr. HANSELL: Yes.

The WITNESS: Yes, although we have never made an estimate of that kind. I am afraid I could not give you an answer to that question either.

By Mr. Hansell:

Q. I understand that since the new rates went in for the transportation of long distance hauling of motor vehicles that there has been quite a loss in investment there?—A. Yes.

Q. Have you any record of that?—A. A number of operators who were involved there were not members of our associations and it is very difficult to give an actual account of the people who were put out of business by that agreed charge although a number were. They were particularly vulnerable because their equipment was adapted to handling one type of freight. An operator who is in that position under an agreed charge is in the most dangerous position that anyone can be in in the trucking industry because he has no way of shifting into another kind of freight because of his equipment, and it represents the end of his operations.

Q. My next question is along similar lines. In answer to Mr. Byrne's question a little while ago, you stated that there were certain types of trucking operations that had to be pursued in respect to the transportation of meats and I fancy you referred to that type of trucking involving refrigeration. Now, do you see much danger of some considerable losses in that respect?—A. Yes, there is a very grave danger there because again the operators have tried to provide the packers with a superior freight service to rail. They have put extremely expensive refrigerated equipment on the road. There is an operator in the room today who has developed a type of refrigerated equipment which he has patented and which is probably the best type in operation in Canada today. Those operators are going to be very hard hit by this agreed charge which is now up; as a matter of fact, that equipment which is being used for refrigerated transport will become useless.

Q. In answer to Mr. Byrne's question you then referred to the railroad strike. That illustration was only brought in, I fancy, to indicate the importance of the trucking industry?—A. Yes, it happened that they were the words of the royal commission, and we were quoting that extract from the report because the royal commission on transportation pointed out that the danger in the type of legislation which is now being considered by the committee is that it would stifle competition and again it said that it might destroy

or eliminate competition unless subject to restrictions. It was only because in that particular sentence the royal commission itself used the instance of the railway strike that that found its way into our brief.

Q. In respect to the rates for the packing industry I think it is fair to conclude that your intimation was that when the rates had to be reviewed there was a possibility that this refrigeration type of trucking might not exist then and therefore the railways would be in a position to increase their rates without any hope of there being an alternative and that there would be no refrigeration trucks?—A. Yes. I suggested that as a possibility under the pending agreed charges.

Q. I have just two more questions. You are acquainted, I fancy, with the principle of loss leader merchandising. Do you regard the agreed charges as comparable to loss leader?—A. Well, I never made that comparison and I do not think the association ever has. We regard them as a very lethal weapon which up until the present time has been used very, very sparingly. I think it is rather difficult to show the committee the problems that face us today with this amended legislation. According to the railroads' own evidence at the royal commission there is going to be a tremendous upsurge in the agreed charge rate-making which will come in the month following the adjournment of parliament and if there is nothing in the legislation which will enable us to make any appeal or complaint to the minister a very great deal of damage can be done between now and the next session of parliament without any safeguard which we could use on behalf of our people.

Q. Well, Mr. Chairman, I am a new member on this committee, as you know, and perhaps not as experienced as some other members of the committee. Do I understand that we may have a representative from the railways here before the committee?

Hon. Mr. MARLER: I thought that as soon as the questioning of this witness is completed we might hear representatives who are here from the railways.

Mr. HANSELL: I might pursue that line of questioning with them, because I have a feeling that the principle involved in the agreed charges is the same principle involved in the loss leader in this respect that in the agreed charge they could haul freight at a loss.

Hon. Mr. MARLER: I do not think so. I think the whole tradition has been that the agreed charge must be compensatory.

Mr. HANSELL: Of course, I think that depends on what might be meant by the term "compensatory". I have one more question, Mr. Magee. You are not really asking in your brief—or you are not really opposed to agreed charges as I understand it; what you are asking for in this amendment is that you should have the same right to complain to the minister as other shippers?

Hon. Mr. MARLER: As shippers, shall we say?

Mr. HANSELL: Yes, as shippers.

The WITNESS: That is right. Our stand before the Royal Commission on Agreed Charges was that the agreed charge provisions should be abolished. Between the tabling of the report and these hearings we have changed our position very drastically and we certainly feel it is very bitter medicine, but are prepared to swallow it and are not making any further representations on the question of abolition of the agreed charges. We ask only for the right to be heard under this section and I may say we made no representations to the royal commission regarding the matter of being heard under section 33(1) for the very simple reason that the section has never been used since it was put into the legislation in 1938.

Hon. Mr. MARLER: In fact the section of the present Act is available only in favour of carriers at the moment and not even of shippers.

By Mr. Carrick:

Q. I would just like to follow on the line of questioning which the minister started. Let us assume that you are given the right to make some representation before the minister. I do not want to press you further on this than you can go; but when the minister asked you what you thought would be a just ground for complaint the only point you mentioned was that you objected to the restrictive provision in the agreed charges. Is this not one of the very essential parts of the agreed charge, that the shipper be obliged to transport a percentage of his total product for a certain portion of the time, and if you object to that it worries me that you are essentially now objecting to the principle of agreed charge.—A. It seems to me that that is the position we have taken. It is exactly the position that is being given in this legislation to the water carriers. I do not feel that we, making our representations, are doing any more violence to the principle or recommendations than the consideration of the commission that the position of the water carriers should be taken cognizance of in this legislation.

Q. Do you not think it possible that both the water carriers and yourself could conceive of some objection other than to the restrictive provision of the agreed charge?—A. Mr. Chairman, I do not want to be on record as saying that a truck operator, if he obtained a right in the legislation to make an appeal to the minister would only go to the minister to protest the restrictive provision; it might be the restrictive provision, it might be the rate, it might be the fact that he was the only operator in a sparsely populated part of Canada who was serving two centres, and it might be the restrictive provision because of the fact that it would remove his service from those centres. I think that that is a perfectly legitimate ground to take an appeal to the minister on from the standpoint of the public interest. One might say, "Well, the shippers are the people who would be concerned about this," but our experience with the shippers is that it takes them a long time to get into action on these things particularly if the predominant part of the traffic goes by rail, and there are some considerations which enter into their minds apparently in that respect.

By Mr. Langlois:

Q. Mr. Magee, on page 22 of your brief—and you repeated it a few minutes ago—you said that in 1954 "the reduction in gross revenues of the Toronto-Montreal trucking firms—in business lost where railway cuts could not be met and in rate cuts matching a substantial portion of the rail cuts—has amounted to 40 per cent".

Are you in a position to state definitely that all of this 40 per cent reduction is attributable to railway competition—in other words are you taking into consideration in arriving at this figure the general decline in the volume of traffic experienced by all carriers in Canada and the United States in that year?—A. Well, this is the report of the carriers to us from two standpoints: there are two factors involved in this 40 per cent figure. One is the business lost where the rail rate cuts could not be met and traffic had to be lost to the railroads without a fight, and secondly there were the cases where the railway rates did not go too low and where we were able to make cuts or where a trucking company made a rate cut which would still be 10 per cent above the railway rate but because of the service advantage it was able to hold the traffic. Each of those two factors enters into the 40 per cent figure—business lost where railway rate cuts could not be met and rate cuts

matching railway rate cuts wherever the truckers were able to do so. I do not know enough about the traffic situation related to the general economy of the country in respect of Toronto-Montreal truck operators to answer the rest of your question.

Q. In other words you do not know exactly how this factor of 40 per cent was arrived at—if it was by comparing reports received from your operators in previous years as compared to a report for the year in question?—A. Certainly a decline of this nature is very drastic and unusual for our industry.

Q. On the other hand, a good portion could be attributable to the general decline in the volume of traffic such as has been experienced by all carriers in Canada?—A. It could be, but only to a slight extent and the reason I say that is because even in the depression the gross revenues of the railways, which prior to the war reached their peak in 1928, hit rock bottom in 1933 and their decline in gross revenue on that occasion was 50 per cent. That was at the very height of the depression and that is why I say that a 40 per cent decline in gross revenue is a very unusual decline and why I feel very little of it can have relation to general economic conditions. However, I am prepared to admit there may be an element there—

Q. I have one more question. On page 52 of your brief you use the statistics of the Bank of Canada with regard to sales of commercial vehicles as an indication of the prosperity of your trucking industry.—A. Yes, sir.

Q. And for the years 1952, 1953 and 1954 there is marked decline in the number of units sold?—A. Yes.

Q. Is it not a fact that there has been a marked trend in your industry in recent years toward the formation of larger units and that by reason of these larger units you need fewer vehicles to handle the same amount of traffic? Could not this trend explain this decrease in the figures in part at least?—A. Yes, to some extent it might.

By Mr. Herridge:

Q. Is any railroad in Canada the owner of a trucking company or of shares in any trucking company which you represent?—A. Well, yes. I am in a rather unusual position in that respect. There are railroad trucking companies—companies owned by the Canadian Pacific Railway and operating under the name of the Canadian Pacific Transport Company and Island Freight Services operating in British Columbia who are members of the Automotive Transport Association of British Columbia. In fact, in a very small way, through their association dues, they are supporting the Canadian Trucking Association in the work it is doing. This is one of these weird situations we are in.

By Mr. Ellis:

Q. Mr. Magee, you mentioned that the association had no objection to competition, and that the objection they were taking was to the agreed charge feature, and you pointed out that under agreed charges, in a particular contract, 90 per cent of the commodity moved would have to be moved by the railways and 10 per cent presumably left to the truckers. Then I understand you pointed out that the rates were so low that even this 10 per cent could not be handled by the truckers because it was not economically feasible.—A. In many cases that is correct.

Q. Then the objection here is not so much to the agreed charge feature, but to the rate itself?—A. Not always. In many cases the rates are so low that we cannot meet them, but if we were competing with the railroad competitive rate cuts like the ones we got on the Toronto-Montreal run last September which to my mind remove the argument that competitive

rate cuts are not a competitive weapon for dealing with us, we could make a stab at remaining in competition by lowering our rates—perhaps not going all the way, but stating to the shipper that our service advantages are such that if we make a certain reduction it would be to the advantage of the shipper to continue to ship by truck. Under the agreed charge we do not have that opportunity at all. We are excluded from competing for the traffic. There is a restrictive covenant, and sometimes—quite often—100 per cent of the traffic is tied up, as the Royal Commission on Transportation said, for long periods of time.

Hon. Mr. MARLER: It is only tied up because the customer is agreeable to it being tied up.

The WITNESS: Yes sir, in the first instance. I would have to qualify that reply by saying that it is so in the case of the initial shipper. We know, for example, that there are some packers who do not want to come under an agreed charge, but they have told us that if one of the packing houses signs they have got to do the same and give up using trucks because of the rate advantage which the other packer who initially signs is going to receive. The first shipper is certainly the one who wants the agreed charge. Sometimes the shipper who follows also wants it. But there are instances where shippers go into agreed charges despite the fact that they wish to use trucks. They go into a charge because they have to, and the process has a cumulative effect which is one of the worrying features of the agreed charge as the trucking industry sees it.

Mr. CAVERS: We have several representatives of the railways here and maybe they could be heard now.

Mr. GREEN: There is a question which I want to ask of the witness. Is there any provision in the Transport Act at the present time under which the railway is unable to negotiate an agreed charge which would mean carrying goods at a loss?

Hon. Mr. MARLER: I think the position is perfectly clear. That is one of the grounds on which the Board of Transport Commissioners could vary or cancel an agreed charge. I understand that under the present procedure where an application is made for the approval of an agreed charge, the application contains the statement by the company that the rate will be compensatory—in other words that the business will not be carried at a loss, but that it will add something to net revenues, and I do not think it will be found that there is any substantial variation of that principle in Bill 449.

Mr. GREEN: I cannot find anything of that type in the present bill. Should that provision not be written into this bill because from now on the Board of Transport Commissioners will have nothing to do with agreed charges unless the minister authorizes an application to the board.

Hon. Mr. MARLER: I think it will be found it is in the bill under subsection 2 of section 33, Mr. Chairman. I think perhaps it will be more convenient if we were to discuss that matter when we come to deal with the articles, not in the middle of the witness' evidence.

Mr. GREEN: I say that because otherwise it will seem to leave the door open for the railways to put in an agreed charge which is below cost and thus to drive the truckers out of business, at which point they would be in a position to cancel the agreed charge and go on to a charge at a much higher rate without competition.

Hon. Mr. MARLER: I think we might reasonably come back to that point which I think is an important one when we get to that part of the bill.

Mr. CAVERS: Shall we hear now from the representative of the railways? We have here Mr. Hugh E. O'Donnell for the Canadian National Railways.

Mr. Hugh E. O'Donnell, Q.C., representing Canadian National Railways, called:

The WITNESS: Mr. Chairman and gentlemen: I think I might state immediately as far as the Canadian National Railways is concerned that it considers that the bill implements the recommendation which was made by the royal commission. In that connection I think it might be well to have in mind that the Hon. Mr. Justice Turgeon who acted as royal commissioner is a gentleman who had long experience in the hearing and weighing of evidence. He was a former Chief Justice of Saskatchewan and he has presided over many royal commissions.

In this particular royal commission His Lordship was engaged during 39 days, and he heard 54 witnesses. Some 46 briefs, some very lengthy, were presented to him; and apart from that there were 39 other appearances. I do not know to what length the committee would be interested in hearing from us. We listened to Mr. Magee and his reading of this very lengthy document. I can assure you that we have not anything like that to submit.

Our view was that the matter had been gone into very thoroughly and carefully by the commissioner and that his report, being as it is, we were prepared to accept the recommendation and also the bill as now presented. Furthermore, the minister explained the bill I think quite simply and adequately on second reading.

But there is one thing which it is important to have in mind, and that is the purpose of the bill. That purpose is to help the railways. That is the prime purpose of this legislation. It was the purpose for which it was introduced in 1938 and it is still the purpose. The same representations contained in this report were presented to the committee that heard the matter in 1938. In 1951 when the royal commission report which was referred to so frequently by Mr. Magee was being put together, the same representations were made again and the same cause of worry and fear expressed that the trucking industry would be put out of business. In 1955 the repetition is here again. Notwithstanding the fears of the truckers it is interesting to note that even as recently as last year the royal commission report at page 22 was to this effect: that the position of the industry in 1955—in so far as His Lordship examined the position of the trucking industry and compared its numbers in 1938 to its position in 1955—was that there had been a tremendous growth and that the trucking industry was really a very powerful organization at that time, and he concluded by saying, and his words appear on page 26, as follows:

> I am impressed with the belief that the motor industry has become a factor of permanent value in Canada's economic life and that no legislation concerning railways, and, more specifically, the legislation of the kind now contemplated, can cause it vital damage.

His Lordship heard from the trucking industry of its fears of being put out of business; but in spite of that, the trucking industry, on the appraisal of His Lordship had grown tremendously—and I am sure that it is in direct conformity with the record, and it will be found in pages 22 and 23—that in 1938 there were 228,000 truckers; in 1950, 116,000; in 1953, 824,000; and whereas in 1938 there were about 16,000 for-hire trucks, in 1954, when His Lordship heard the evidence in this case, there were 65,000 such truckers with some 15,000 operators. These were for-hire truckers; they were not small truckers by any means.

I think it was suggested to Mr. Magee that they were not the people with whom he was concerned. However that is the situation.

It is on the basis of the economics of the matter that the railways look at the problem. Evidence was given by Mr. Fairweather, a man of many years of experience, vice-president of Canadian National Railways and in charge of its Department of Research and Development. He said that in so far as his appraisal went, there was $150 million a year of economic waste due to the effect of the division and distribution of traffic in the transport business; and he said that it was going to places where it should not go; that the truckers were doing business which should have been done by the railways and which could have been done by the railways at much lower cost. Railway freight rates should not be used, on our submission, to keep the truckers in business. The rates in the competitive field should be such that the public gets transportation at the lowest price possible. That is the purpose of them. The railways can provide a lower cost of transportation.

I have a couple of short extracts I would like to put before the committee, and I do not want to take up very much time. Mr. Fairweather and Mr. Gordon testified as to the effect of the business which the trucks were taking from the railways. In exhibit 59, to be found at page 4,106 of the record, Mr. Gordon stated:—

> In freight competition the railways are in a paradoxical situation. We depend on the top 25 per cent of C.N.R. freight traffic to carry our uneconomic operations. The paradox of transportation is that highway transport trucks, whose costs are from two to five times ours in proportion to distance, have been cutting into this crucial high rate traffic. It is not that the trucks carry so much. For-hire carriers moved only nine per cent of 1952 road-rail freight. But the revenue they earned doing it was 25 per cent of total road-rail freight receipts. We need some of this revenue to ease the pressure of costs. Our problem is to get it.
>
> If the railways are to survive as a healthy and solvent industry they must be able to cut freight rates on traffic vulnerable to truck competition and bid to regain lost business.

In the same exhibit, Mr. Gordon also said:—

> Present indications are for a revenue decline in 1954 of not less than $60 million below 1953.

Mr. Fairweather pointed out at page 4108 as follows:

> In the competitive field the trucks probably did not handle more than 15 per cent of the total traffic, but that 15 per cent is enormous in importance because the railway typically gets about 80 to 85 per cent of its net revenue, which it uses to pay all of its overhead expenses from that segment of the economy.

It will be remembered that our friends, the truckers, magnanimously said that as far as the natural resource products go—agriculture, mines, forests and that type of thing which have to move in order to keep our economy alive and active—they are not interested in those. They are left for the railways to haul. It is the top cream in which they are interested and the top cream provides the wherewithall for the movement of the lower rate traffic in which there is no money and this the railways have to carry in order that the economy can be kept sound.

In the competitive field, the trucks did not handle more than 15 per cent of the total traffic, but that 15 per cent is enormous in importance because from that segment of the economy, the railway typicaly gets 80 per cent or 85 per cent of its net revenue which has to be used to pay all its overhead

expenses. That is the importance of the cream of the business. The manufactured products constitute the high rate traffic and provide the wherewithall to permit the railways to move the products of the mines, the forests—

Mr. BYRNE: And the plains?

The WITNESS: —and the plains, if you please. Anything in the way of natural resources—that is where the nation's money comes from. In the railway's position it does not make sense that the truckers should be allowed to move much of that high rate traffic when it costs them much more than the railways to do it. If the railways wished to have an out and out rate war—and still move the traffic without losing money,—there would be no problem so far as the truckers are concerned. They just could not compete. But that is not the position. The position simply is this. Our friend's brief for many pages refers to the competitive rate. The trucker loves the competitive rate of the railways. The members of the committee should bear clearly in mind that the competitive rate of the railways must be published by the railways. Now, the minute that rate is published, the trucker has the umbrella. He then slides under it and bids a little lower rate and gets the business. He likes that type of operation whereby he, without having to publish his rate, knows that of his competitors, the railways.

Now I should like to speak about the agreed charge. Over many years the railways knew about this type of operation but they could not do anything about it. Under the agreed charge the railways can effectively compete for the traffic. The railway representative goes to the shipper and says, "You have a large volume of traffic." The railway man knows he can carry it far cheaper than the trucker. It is trans-continental traffic. On the basis of the record this is true. He knows he can carry it cheaper. If the railway man quotes a competitive rate the trucker then goes and says, "I will give you a cheaper rate,". The shipper also likes the competitive rate of the railways because using it he has a lever with which to bargain with the trucker. When the competitive rate is published it is the umbrella under which the trucker can take cover. The matter is as simple as that—if the railways are to use the competitive rate then the trucker cuts under and takes the business, but where the railroad goes to the manufacturer and says, "We will carry your products,"—whatever they may be, take automobiles, for instance, one of the agreed charges—if you will make an agreed charge." The railways went to the automobile companies and said, "We are convinced we can carry your products from Windsor to Vancouver or intermediate points at a far lower rate than the truckers, but we are not going to publish a competitve rate which will then simply let the truckers continue to cut under us and take the business. There is no point in doing that. But we will give you a lower rate if you will give us a percentage of your traffic and make a contract." As the minister suggested, there must be a contract, and it is on a competitve basis. The railways do not get the business unless the shipper is willing to sign a contract so that at and until that point he may or may not make an agreed charge as he pleases. Truckers have done the same type of thing all during the years—they have always been free to make contract rates.

Just at this point in my extremely disjointed remarks for which I apologize—I would like to refer to a suggestion made to the witness, I think by Mr. Hansell, that agreed charges were loss leaders. Agreed charges are not loss leaders. Agreed charge rates provide higher than the average rates. They are the most remunerative of all, I think, on a percentage basis. At page 363 of the record there is a statement under the column "average revenue per ton mile" and these figures were taken from the 1953 Weigh Bill Analysis, page 3—the average revenue per ton mile shows as follows: special commodity rates produced an average revenue per ton mile of 1·18 cents, statutory

commodity rates ·51 cents, competitive rates show 2·52 cents and agreed charges 3·40 cents. Agreed charges provide higher returns from the Weigh Bill Study which the Board of Transport Commissioners conducts than any other rates in the book. The other thing is that no agreed charge has ever been turned down by the Board of Transport Commissioners because it was non-compensatory—it must be under the statute in order that it may be put in. As practical keen business men which I think the railway officials are, they would not put loss rates into the tariffs. They are not in business to lose money. That is the avowed evidence in all the rate cases I have been involved in since 1946. The railways have constantly said that is the fact, and so far as I am concerned, none of these rates are loss leaders—they are and must be compensatory and the agreed charges rates produce the highest average revenue per ton mile of all the rates. Precluding the railways from being able to put in the rates expeditiously and quickly—just as quickly as the truckers can—has been the difficulty about the agreed charges rates heretofore. It has taken too long to get them into force. The time lag has been such that it has been difficult to convince the shipper he should sign the contract because he might have to wait for months. The automobile agreed charges and the iron and steel agreed charges were negotiated for in the month of March, April or May, and by reason of complaints received from people who suggested they had a right to complain and to file a complaint, the cases were held up until the last day of September, and in a hearing of one day the agreed charges were approved and put into force the next day. In the interval the railways and shippers and manufacturers who would have shipped to the west coast were precluded from enjoying a whole season's business.

The purpose of the amendments to the agreed charges are to expedite their coming into force so the railways can go into the business of competing in a business-like way with their competitors. A trucker can make up his mind instantly as to whether or not he will make a contract. The railways were required to say, "We have to make a contract, file it, and if there is any objection we will have to wait for a decision of the Board of Transport Commissioners,"—and they had to wait longer than is now provided for under this proposed legislation.

I am sure the committee will read the report of the royal commission very carefully. Mr. Justice Turgeon points out and stresses the difference between the position of the trucking industry as compared with that of the railway industry and indicates that the trucking industry is more prosperous than the railway industry in so far as the evidence goes. His Lordship goes on to say on page 25 of the report that "the legislative relief proposed by the railways will simply enable them to do from now on what the trucks have always had the right to do, that is to approach shippers freely with business proposals that can promptly be made effective. There always have been truckers who carry goods for shippers by contract." That is the whole purpose of the matter, and as I mentioned a few moments ago the commissioner was of the opinion that this legislation would not cause vital damage to the industry.

That is the situation in so far as the railways are concerned.

Further on page 26 there is another brief extract:

> It is true, however, as I have shown, that the practice of agreed charges was introduced in Canada mainly for the purpose of enabling the railways to cope more effectively with the competition of the trucks. This purpose must therefore be kept in view when changes in the law are being considered, and must prevail against objection, so long as it does not go so far as to create an injustice towards truckers or others. I am satisfied that in this case no injustice can be asserted.

Again

> But these changes will merely remove from the railway certain restrictions from which the trucks have always been free and will remain free. There can be nothing unjust in this.

And there is a further pertinent remark:

> I think the most striking development to be noted during the last few years is the growth in the size, the efficiency and the prosperity of the trucking industry, on the one hand, and, on the other hand, the great deterioration to be seen in the financial position of the railways despite all they have achieved in the way of improving their property and their services. This railway situation is opposed to the national interest.

The truckers have always been free to make agreed charges. They have grown tremendously since agreed charges were put in in 1938. There is no question of them going out of business. The truck has a place very definitely and there is traffic that the truck can handle very much more economically and expeditiously and can provide service that the railways cannot match. There is a field which gives truckers ample play to grow and to carry on without any danger of going out of existence.

Now my friend Mr. Magee further referred to extracts in the 1951 report. The 1951 report suggested that at that point there was no reason to change the law. But the same royal commissioner who wrote the 1951 report wrote the 1955 report and he said in the 1955 report that in 1951 by reason of the fact that the experience which then prevailed was not sufficient to warrant disturbing the picture—

Mr. CAMERON (*Nanaimo*): I just do not want to see the reporter collapse in the heat and I would ask if our witness could speak a little more slowly.

The WITNESS: I just get carried away.

Mr. CAMERON (*Nanaimo*): I noticed the agonized expression on the reporter's face.

The WITNESS: I just was making the point that the same royal commissioner who heard the situation in 1951 had to sit through 39 days of hearings in 1954 and had to read all those pages of the voluminous record. All told, I do not know how many pages there are, but I have here volume 34 and this is at page 4,100 and some odd. There are 6 or 7 more volumes so he had 5,000 odd pages apart from all the briefs. The Royal Commissioner had a real opportunity to be well versed in all the intricacies of the railways and the trucking business. At page 25 of the report the Commissioner refers to the extract my friend read saying in 1951 there had not been an extensive enough period to warrant coming to a conclusion but he also said:

> In effect this language meant that, in the opinion of the Commission, the time had not yet come, in 1951, to undertake a revision of agreed charge legislation. Economic conditions did not then prompt the taking of such a step as a matter of urgency. But the situation has altered greatly since then. As things are now, the railways need relief in the form of better means to compete with others in the pursuit of their business as purveyors of transportation.

He commented on the fact that the trucking industry was free relatively from regulation. I think it is evident from the answer given by my friend that, for instance, in Ontario while there is a certain amount of regulation as to franchise and route, there is no rate regulation at all. Railways on the other hand have rate regulation and this agreed charge business is hampered

by regulation. If we were able to do as they do in England now the railways and shippers make their own agreement. No competitor of a shipper is entitled to know what arrangement the shipper has with the railway. Competition is the regulator. The railways take the position here in Canada that competition should be the regulator. They say that where there is competition then the competition should be free and equal and that that would determine the issue; and the shipper will decide the medium which he wishes to use. The public will get the benefit of the lower rate that is provided by the competitor who is willing to take the traffic at an agreed or contract rate. The carriers and the shippers, all of them want to make money; there is no question about that.

My friend Mr. Magee stated something about discrimination so far as other competitors are concerned. He said other competitors had the right to make objection. That is true; but the other competitors to which he referred are the regulated competitors who come within the purview of the Transport Act, such as certain water carriers. The truckers who are not regulated have never had any such status. The provisions in the Transport Act were brought in for the protection of the railways and not the truckers. Mr. Justice Turgeon remarked about the objection of the truckers and others. He pointed out that the purpose of the legislation was to provide for more flexibility—this is at the bottom of page 26. He says:

> At this point I think it well to set out briefly the substance of the complaints against agreed charges made by various parties on the grounds that the practice is injurious to their own business interests or to the interests of certain localities. I do this because, while I do not think, after careful study, that any of these objections should prevail against the conclusion at which I have arrived in favour of maintaining the agreed charge practice and of making it more "flexible", I feel that in justice to these parties, the nature of their objections should be made known in this summary manner to those whose duty it will be to read and consider this report. The record will show fully, in each case, the evidence and the argument submitted in support of the objections taken.

The first objection naturally is that of the truckers association—Canadian Trucking Association. The whole purpose of the Royal Commissioner's recommendation was to provide flexibility for the railways in order that they might compete more effectively and expeditiously with the truckers.

There was some question as to the extent to which employees of the trucking industry were organized in the unions, and Mr. Magee suggested, I think, they had somewhere in the neighbourhood of 7,000 employees, if I understood him correctly. The railway industry has roughly at least 200,000 employees. The railway industry's position is the one which this agreed charge arrangement was brought in to protect and, as I say, it has 200,000-odd employees. There was also some observation about the restrictive nature of the clauses in agreed charge contracts. I think it was pointed out by the minister that before an agreed charge can come into force the railways must have been able to convince the business man that it is in his interest to sign a contract, because at that point the competition is between the trucker and the railway for the shipper's business.

The railways feel that shippers are alert enough to protect themselves and get the best bargain there is and so long as the rate provides for the railways considerable contributions in most cases to the overhead expenses it is in the national interest that they should be enabled to do the work at a lower economic cost. The truckers will still have plenty of opportunity to operate in a remunerative field. It is only when the shipper is satisfied that this contract

can be made. It is rather amazing in my view to hear the truckers talking about the traffic as if they had a vested interest in any traffic.

It is only a few years back that the trucking business came into existence at all. At one time all this traffic which is the subject of the discussion here was carried by the railways and the only reason—or one of the main reasons—why the truckers got in was that the railway rates in certain cases were too high. The automobile industry is an example of that. The rates initially were too high and the railways lost the traffic, but they recovered it and are now making money on an agreed charge.

Another example is that of the delivery of butter from Manitoba to Ontario. Until several years back it was always moved by rail, and there was a considerable quantity of it. When the railways found that their rates were high and that they were losing the traffic to trucks they considered that this product was something they could well carry, they adjusted their rates accordingly and making an agreed charge got the traffic back. I do not think that the truckers can complain that there is any injustice in that, but apparently that is what they do complain about.

Well, Mr. Chairman, this is a subject on which we have had a lot of information and unless the committee has some other views I think I have said all I may properly say and I thank you very much.

Mr. CAVERS: Shall we now hear Mr. O'Brien of the C.P.R.?

Mr. HAHN: With your permission, Mr. Chairman, I have a question to ask first. Mr. O'Donnell, you spoke about your purpose being your desire to help the railways. I take it you meant financial help, because the C.N.R. had a deficit of $28 million—

The WITNESS: I think the two railroads need it—

Mr. HAHN: I just wanted to draw to your attention that when Mr. Donald Gordon was before the committee I had the privilege of asking him a question with regard to this deficit, and he indicated that there were three main reasons: the type of depreciation which we used, the fact that we were keeping a certain group of some 7,000 employees who would normally have been laid off if they had been working for the C.P.R., and the decline in freight receipts from grain. It was also mentioned—though this was challenged—that it was due to the type of rail we had been using. None of these was the reason which you mentioned. I am at a bit of a loss here and I just want you to explain how this loss-leadering—

Hon. Mr. MARLER: It is not loss-leadering.

The WITNESS: No, it is not loss-leadering—I cannot go along with that one.

Mr. HAHN: Well, these agreed charges. Why should these truckers be attacked—put out of business, one might say, in view of the fact that we are keeping 7,000 extra men on the C.N.R. during the winter?

The WITNESS: I did not say, Mr. Chairman, that the agreed charge revenues which we should receive would account for all of the deficit. What I did speak of was the revenue aspect of the matter. I think Mr. Gordon was discussing expenditure items. I am not interested in expenditure items at this point. I simply said that the C.N.R. had a deficit of $28 million and I pointed out that the revenue from these agreed charges was the highest of all the rates on the basis of the Waybill Analysis and that, as Mr. Fairweather put it, the top 15 per cent of the revenue produces between 80 and 85 per cent of the net total to meet in part those expenses of which Mr. Gordon spoke.

I was merely emphasizing that through the recovery of the revenue which the agreed charges would provide if we were permitted to deal with them more expeditiously we could hope to increase the revenue to the railways in

such a way as to assist in meeting this deficit. That top 15 per cent, I said, was most important and that covers the products in which the trucker is solely interested.

By Mr. Hahn:

Q. You used the idea of the trucker crawling under the umbrella of the freight rate as set out by the Board of Transport Commissioners. That is on a competitive basis. Is that true in British Columbia, Alberta, Saskatchewan, Manitoba and Quebec?—A. I think that generally speaking it is true anywhere. In exhibit 50—if you are interested in information—you will see just what I am talking about. Unfortunately I have not got it here with me today. Exhibit 50 was the document which contained a communication from the Truckers Association. Mr. Magee commented on his brief—that truckers operating in Ontario between points in Ontario and Montreal had complained that the railways had cut the rates on a competitive basis—that only one of them was abiding by the rates, and that one, incidentally, was the business of the gentleman who was then testifying.

That report by Mr. Magee said that only one trucker was going through the business of pretending to comply with the rates. I suggested to him that of course this company was the one which he represented, and he nodded that that was right. Competition is just as "cut-throat" between trucker and trucker as it is between truckers and the railways.

Q. The points you mention are in Ontario and, of course, Montreal. In the province of British Columbia it is definitely laid down by statute what rates must be charged by the trucking industry for the hauling of goods from one point to another. They cannot just change their charges, as you suggested a while ago, by a deal at the door. They have to abide by the regulations.—A. The railway publishes its rate, then the trucker quotes a rate to the shipper and that rate is usually just a little lower than the railroad quotation. That is how I think it usually works. When I say that the "umbrella" is there, in practice it is there and that is what they would like to have the railways continue to do—to be forced to publish their competitive rates. There is very little "policing" or checking of the charges which are filed by the truckers. In other words the railroads have to publish their rate and that is what I mean by "umbrella."

Q. Do you imply that if a certain trucking firm in British Columbia were charging less than the rate set by statute no action would be taken?—A. I don't know about that. I am speaking generally. As I get it from the record—and I think we can find it from the record—that is about the gist of it and the truckers themselves I think would acknowledge it.

Q. I have one other question. Would you be agreed, in view of the fact that there are certain provinces which have definite regulations which are apparently being enforced, that the agreed charges in this bill should only be applicable in those provinces where there are no rates set down, such as Ontario ,Nova Scotia, and New Brunswick?—A. I am only dealing with inter-provincial matters. So far as I am concerned, with respect to these agreed charges here, for instance, or with respect to a trucker from Oshawa to Vancouver—I am not going to get into a constitutional argument—I think that the Transport Act is fully constitutional and that this committee is dealing with something which it has a right to deal with.

By Mr. Hansell:

Q. When you talk about the compensatory rate, what is that "compensatory"? Is it compensatory to all inclusive costs?—A. It is compensatory to the railways; it must provide to the railways not merely out of pocket expenses,

but something more. Would you be good enough to look at page 19 of the report—this report is well worth careful examination—where you will see:

> On a cost basis there may be said to be three rates applicable to any shipment. The first, and highest, is a rate which would return to the railways the direct or out of pocket cost of providing the service plus an equitable share of the overhead costs which the railway must necessarily incur, but which are not specifically identified with any particular traffic. These two items, direct cost plus a share of overhead costs, make up the total cost. There is little or no possibility of the railways being able to establish rate scales in which the rates for individual traffic movements would exactly cover the total costs of such movements. In practical application the upper rate limit is either what can be obtained in the face of other transportation competition, or if such competition does not exist, by looking to the value of the service rendered. In this latter case the rate would be of course a maximum rate to the shipper. Therefore, from a consideration of the respective interests of the shipper and the railway, a rate will generally be fixed somewhat below this ceiling so as to allow the largest possible volume of traffic to move with the greatest benefit to railway and shipper alike.
>
> The second, and lowest, rate would be on which would return to the railway only the direct cost of providing the service, in other words the out of pocket cost. Certainly the railways could not long operate if they recovered only the out of pocket cost of doing business.
>
> Between these two extremes there lies a wide margin within which will be found what I may call the third rate, that is, one which covers the out of pocket costs and in addition makes varying contributions, although less than in the case of the first and highest rate, towards the overhead expenses of the railway.

The majority of the rates fall within that group. That is the bracket in which the bulk of the compensatory rates are to be found.

Q. Thank you.—A. I think the commissioner has spelled that all out.

By Mr. Carrick:

Q. From what you know of the operations of the railway, do you think there will be any possibility of the railways using the agreed charge as a loss-leader, and if so, of their continuing to put it into force for any period of time? —A. I am satisfied from what I know of the findings of the Board of Transport Commissioners and of the evidence before committees of this House since 1946, and of the evidence of Mr. George Walker, chairman of the Canadian Pacific Railway, and of Mr. R. C. Vaughan, former Chairman and President of Canadian National Railway traffic management of both railways that all of them are in complete agreement that the railways do not take business at a loss. They are not in the business of railways any more than a manufacturer is in business in order to incur losses. There are some losses which they cannot help, for instance when their revenues fall off due to a drop in traffic, but they do not want to take business at a loss, and I am sure that the officers of the Canadian National Railways would not take business at a loss.

By Mr. Green:

Q. I understood you to say when you were making your statement originally, that there was some provision which made it necessary for the rates under an agreed charge to be compensatory?—A. Yes, sir.

Q. Can you point out to me where that provision is contained in the law, at the present time?—A. Where it is in the law?

Q. Yes.—A. There is the right to object in that event.

Hon. Mr. MARLER: I think it is sub-section 15, of section 32.

The WITNESS: The right of anyone to object that the charge is not compensatory; that was one of the subsections, and section 32, sub-section 15 reads as follows:

> (15) On any application under this section, the Board shall have regard to all considerations that appear to it to be relevant and, in particular, to the effect that the making of the agreed charge or the fixing of a charge is likely to have, or has had, on
>
> (*a*) the net revenue of the carrier, and . . .

By Mr. Green:

Q. The law as it stands at the present time before the bill comes into effect is that when an agreed charge is filed with the Board of Transport Commissioners, it must be one that does not affect the net revenue of the carrier.—A. It affects it, but it affects it beneficially to the carrier.

Q. It must be beneficial to the carrier?—A. Yes.

Q. As I read the new bill it takes away the need of filing, or the need of getting the approval of the Board of Transport Commissioners before the agreed charge can come into effect.—A. That is right.

Q. And in addition, it contains no provision whatever such as the one you have just read as contained is section 32, sub-section 15, clause (*a*)?—A. Section 33, sub-section 2 does refer to the net revenue of the carrier. The assumption on which the railways proceed is that they are in business for the purpose of making money, and that they should be relied upon as any ordinary businessman, to be jealous of their revenue position, and that they are not going into a business on a loss basis, and that they should be relied upon not to do that. There has never been an agreed charge rejected because of the fact that it was not compensatory. They should not be under any more tutelage than any other business man.

Section 33, sub-section 2 reads as follows:

> (2) Where under this section the Board cancels or varies an agreed charge, any charge fixed under this Part in favour of a shipper complaining of that agreed charge shall cease to operate, or shall be subject to such corresponding modifications as the Board may determine.

Q. Under the bill there will be no restriction on the railway to the effect that the agreed charge must not be one which means a loss to the railway?—A. Well, the only thing is that the railway management feels that they have to be relied on just as any other business concern is relied on to try to further the ends of the business. They are the trustees, the guardians, and they will not consciously make losses.

By Mr. Green:

Q. Under the old law we did not have to rely on the railway not to put in agreed charges below cost—that was actually written into section 32. Is there any particular objection to a provision of that kind being written into this new section?—A. It brought about the situation whereby on a simple complaint from someone who had no real interest in the contract, the agreed charge could be held up for months on end on the ground that the net revenue position was going to be diminished by reason of the agreed charge. The purpose of these amendments, as propounded by the railways—and they were not accepted in whole by the commissioner; he adjusted them and made recommendations of his own—but under the bill as it now stands the agreed charge goes into force and if after it has been in force for three

months there is anyone who suggests it is detrimental to the railway or the shipper, a complaint can be made and the board hears it.

Q. But you said it is not the intention of the railway to conduct business under an agreed charge at a loss?—A. Yes, that is right.

Q. Why does the railway have any objection to writing in a provision of that kind—

Hon. Mr. MARLER: What kind?

Mr. GREEN: —into the new section 32?

Hon. Mr. MARLER: But what kind of restriction?

By Mr. Green:

Q. A provision similar to the provision set out in section 15, clause (*a*). I am not advocating returning to the old system and having to have the board approve an agreed charge, but there should perhaps be something written into section 32 to the effect that the agreed charge must not be one which takes a loss. I am asking Mr. O'Donnell if the railways have any serious objection to a provision of that kind?—A. All I would say to that, Mr. Green, is that the railways are satisfied, the C.N.R. is satisfied and I think our friends, the C.P.R. and all the other railways in Canada—and there are a number of them—are satisfied with the bill as it now stands. It is not exactly in conformity with the amendments the railways suggested, but it is adequate. The railways wanted to have the agreed charges come in even more quickly than the commissioner suggested they should and there were a number of other changes of that kind. We think it is adequate and that it should be given a try, and if an agreed charge remains in effect three months before it can be attacked that is just sufficient time to allow the experience to become evident to those who wish to complain.

Q. You would not care to express an opinion one way or the other as to whether or not the railways would object?—A. I personally would care. I think the English system is the one that should prevail; that is, it should be a matter of private contract between the shipper and the carrier where there is competition.

Q. In other words, the railways should be allowed to operate at a loss if they care to?—A. No.

Q. That is what it amounts to.—A. No, it predicates taking business at a profit.

Q. Why not put it into the Act?—A. I am not drafting the Act, and it is satisfactory to us the way it stands now.

Q. I understand why it would be satisfactory to you. It was written in the law before and why should it not be written in now?

Hon. Mr. MARLER: But Mr. Green, previously there was a procedure outlined in the statute which made it possible to test the effect on the net revenue of the carrier. An application had to be made for approval of the agreed charge by the board and when the board considered the agreed charge one of the elements it had to deal with under subsection 15 of section 32 was the effect on the net revenue of the carrier. Under the proposed bill there is no procedure for the charge to be referred to the Board of Transport Commissioners and if you say we must insert a provision that the agreed charge must be compensatory then in effect you are saying it must go to the board for examination of that aspect of the agreed charge, and I think that is impossible.

Mr. GREEN: I am not saying, Mr. Minister, that it must go to the board beforehand, but what I cannot understand is why the railways should have

any objection to there being written into section 32 that an agreed charge must be compensatory. That was written into the present law.

Hon. Mr. MARLER: Not in that form. It is the form, I am afraid, which presents the difficulty.

By Mr. Green:

Q. Of course the trucking industry is worried about the railways cutting these rates away down and running the truckers out of business. I would like to ask Mr. O'Donnell what there is under this bill to prevent the railways doing just that?—A. Well, it is 33 (2) which certainly says after three months if it has been done there can be a review of the matter. The reason that the railways like it the way it is as recommended by the commissioner who heard those objections and many more is that it does away with the delay which previously ensued. Those people who had no real interest in an agreed charge —the automobile agreed charge, the charge on iron and steel to the west coast from Hamilton and Three Rivers and the Algoma people—simply sent a telegram to the Board of Transport Commissioners "we make objection" and the agreed charge was hung up from May until the last day of September when we had a hearing. No evidence was presented by the complainants and the next day the order was issued, but in the meantime we had lost the whole season's business.

Q. Under the new bill is there any provision which would prevent the railways making an agreed charge which is below cost and by so doing run the competing truckers out of business? Then of course the railways are free under section 32 (12) to cancel an agreed charge at the expiration of a year.—A. The officials who are in charge of all the railways in Canada, I think the committee can realize, are not interested in doing that type of thing. They never have done it; there has never been an agreed charge that was not compensatory. Even competitive rates must all be compensatory and all have been and there has never been a case yet by reason of the fact that they were not compensatory. I think that parliament should have sufficient faith in the administrators of the railways to at least trust them for three months. At the end of that three months then the machinery of section 33 (2) could be put into play.

Q. No one can apply to the minister for permission to go to the Board of Transport Commissioners before a period of three months and then it would probably take months to get the approval of the minister and get all the wheels in motion; they might not get it at all. They get all of the arrangements made for them here and in effect under this law the railways might have an agreed charge which was a loss leader in effect for a year or so before the Board of Transport Commissioners caught up with them. Is that not possible?—A. Bear in mind that under section 32 (2) all the carriers must agree. I cannot conceive of Mr. Donald Gordon and Mr. Crump sitting down and saying: "There is a trucking operation between Kamloops and some place, let us cut the rate down and put them out of business." They have never done and I do not think they would.

Q. It would probably not be Mr. Donald Gordon and Mr. Crump who would meet. Have you any serious objection to the request of the trucking industry that section 33 of the bill be amended to give them the opportunity of protesting to the minister and asking for permission to appear before the Board of Transport Commissioners?—A. I have objection in so far as there might be any further impediment placed on the railways by increasing the number of potential objectors. They are in competition with the railway and should be able to take care of themselves. The railways are merely being asked to be put on a basis of equality. The railways today are competing with

a competitor who is free to cut the bottom out of any rate at any time. There are a few instances where it is suggested that the provincial regulations are watched more closely than others, but generally speaking, they are watched very little. Take Toronto and Montreal—and I suggest that you take a look at exhibit 50 which is rather interesting. There was only one carrier who admitted, and he is the gentleman who was testifying, that he abided by the law but all the others were cutting under the rates they had authorized and it did not mean anything.

Q. If the amendments requested by the trucking industry were written into the bill they would still not have any right whatever to interfere with the agreed charge coming into effect. All they would have would be the right after it had been in effect for a period of at least two or three months to apply to the minister for permission to appear before the Board of Transport Commissioners. Does the C.N.R. have any serious objection to giving the trucking industry that protection?—A. You are asking me that question, and I am probably in a biased position, but I do not like any impediment to the operation of the railroad. I am content—the Canadian National is content—with considered judgment of the royal commissioner who heard that type of objection and who did not accept it and who proposed the bill as it appears in the appendix to his report. That was the unbiased judgment of a man who heard all the evidence and weighed it impartially and came up with the recommendation which he says should be given a chance to operate.

Q. Are you in any way objecting to this suggestion that section 33 should be amended—A. Yes, because that makes another objector who is a competitor of ours—who wants to know all about our business, while we are not entitled to know anything about his business.

Q. Is it not a fact that anyone—a water carrier or a motor carrier—protesting under section 33 could only expect to get any relief if the rate had been unfair?—A. Oh, yes, that is true.

Q. Well ,what is the objection to that—to letting them at least protest? They won't get anywhere in their protest.—A. If they are not going to get anywhere, then why waste our time and theirs?

Q. Unless they could prove, first to the minister and then to the chairman of the Board of Transport Commissioners, that there was something unfair about a particular agreed charge.

Hon. Mr. MARLER: I do not think that is correct. I think the amendment goes a great deal further than that. In the first place, it is not after a delay of three months but immediately, and in the second place they wish to have the right to complain if they are unjustly discriminated against or placed at an unfair disadvantage. "Unfair disadvantage" I take it in the view of the truckers is any rate which is lower than the rates which they are willing to quote. That is why it seems to me the amendment is a trifle seductive and putting the trucking operators among the carriers as if they belonged there. I don't think it is as simple as you make it appear, Mr. Green.

Mr. GREEN: Those words already appear in section 33 of the bill.

Hon. Mr. MARLER: They do, but they apply to shippers primarily or to regulated carriers.

Mr. GREEN: Is it a fact though that nobody, shippers or anyone else, would make any headway under section 33 unless they had a good case?

Hon. Mr. MARLER: I think they might not make headway, but they might make a lot of trouble.

By Mr. Green:

Q. Is Mr. O'Donnell's objection that the trucking industry might make trouble if it had the right to protest under section 32?—A. I have no doubt about it. Exhibit 50 will show what I am talking about. There was the case of an agreed charge up for approval, and the Trucking Association Executive reported that is was trying to find a shipper who would make objection. I have no doubt that the trucks would certainly do that—make trouble. They can impede our operations.

Q. Is there any objection to finding a shipper who cannot make a complaint?

Hon. Mr. MARLER: It must be unfair to the shipper.

The WITNESS: The only thing, as the minister says, is the matter of delay. If there is an objection to be heard, and if it entails delay—I turn to the automobile agreed charge situation wherein there was a delay from May to October when we were hung up.

By Mr. Green:

Q. Delay does not affect you in this case because you have already got your agreed charge in being, and it is only a matter of the right to protect, seeing that the agreed charge is in effect; so delay does not come into the picture.—A. With all the good will in the world, I am not entitled to recede from, or make any concessions more than we get from the royal commission. We think the report is fair enough in all the circumstances, and we think that Mr. Justice Turgeon, who heard the evidence, thought that it was fair to the railways, and his report says that it is fair to the railways. It is the railways which are under consideration and it is fair to them that it should be that way.

Q. We had evidence today that the railways appeared to be branching out in this practice of negotiating agreed charges very extensively. Is that the case? Is it the policy of the railways to negotiate a great number of agreed charges?—A. The railways are out to get all the business they can get which will pay. The agreed charge is predicated on its being remunerative to the railways, and the more agreed charges they can get which are remunerative to them, the more commodities they can carry.

Q. Is there now an upsurge in the negotiation of agreed charges by the railways?—A. The railway people are alert to that business potential which is available and the more they can get, the better they like it.

Q. Am I to take it that the railway policy now is to go into the agreed charge field in a big way?—A. I am not making the policy but my understanding is that the railways are out to get all the business they can which will pay.

Q. That is the same answer that I got before.

Hon. Mr. MARLER: That is a double confirmation.

Mr. CARRICK: May I ask Mr. Green a question before Mr. O'Donnell goes, because he may want to ask Mr. O'Donnell something. We are interested in the point which Mr. Green has raised, and we know that the bill as drafted at the present time provides that there may be an inquiry after the rate has come into effect, to see if it is compensatory in fact. Can Mr. Green tell us how he thinks we can insert a provision in the Act requiring the agreed charge to be compensatory, without, at the same time, holding up the time that the agreed charge can be put into force until after is has been approved?

Mr. GREEN: I think it could be written into section 32. There is a section in the Railway Act. I have not had the time to look up the different sections, but in it the words "compensatory rates" are used. I notice that it is in section

334, but all I had in mind was that there should be a provision written into section 32 that these rates under the agreed charges must be compensatory. Mr. O'Donnell said that the railways intended to have the rates compensatory, and if that were written in it would get away from the possibility of agreed charges being used to run competition out of business by dropping the rates below the actual cost; I see no reason why a provision of that kind could not be written in.

The WITNESS: I am in favour of the private enterprise principle—

Mr. GREEN: I beg your pardon?

The WITNESS: I am for the private enterprise principle that competition is what regulates and the operators and the railways will see to it they are not going to lose money. That is all I can say.

Mr. McIVOR: Carried.

Mr. GREEN: If people cut the rates to beat out competitors—I guess even a lawyer can do that sometimes although they are not supposed to—however, it does happen, and I see no reason why there should not be a provision of that kind written into section 32.

Mr. CARRICK: I think if the railways did what is contemplated by Mr. Green, that they might attempt to lower rates to force a competitor out of business, but it would be an offence under section 498(*a*) of the Criminal Code and I think it is unlikely that our railway companies will endeavour to do that.

Mr. GREEN: Mr. Carrick, as you know, it is pretty difficult to convict anyone under that section of the Code and I do not think it would be physically possible to catch up with the railways if they did that. I do not think it would be considered a crime. Simply as a matter of getting business and running the truckers out of business—which in the long run means a detriment to the people of Canada—they might make these agreed charges so low that it meant a loss of their own revenue, put the trucking men out of business, and then they could turn around and cancel their agreed charges under section 32, and go back on a higher basis without any competition.

An Hon. MEMBER: They could not do that—

Mr. GREEN: I do not see why there should not be a provision of that kind in the Act.

Hon. Mr. MARLER: Mr. Green, I would be very glad to consider that point and deal with it later during the committee sittings.

Mr. HAHN: The minister has answered my question in making that last remark, Mr. Chairman.

The CHAIRMAN: Well, gentlemen, we will now adjourn until 8 o'clock this evening at which time we will meet in this room.

EVENING SESSION

JUNE 28, 1955.
8 p.m.

The CHAIRMAN: Gentlemen, we have a quorum.

Mr. CAVERS: Mr. Chairman and gentlemen, I think it was agreed before the dinner adjournment that we would hear Mr. J. L. O'Brien, Q.C., who is representing the Canadian Pacific Railway.

Mr. GREEN: There is one further question I intended to ask Mr. O'Donnell.

Mr. CAVERS: He is not here now.

Hon. Mr. MARLER: Perhaps he will be back later.

The CHAIRMAN: You could ask him when he comes back, Mr. Green.

Mr. CAVERS: Mr. O'Brien.

Mr. J. L. O'Brien, Q.C., representing Canadian Pacific Railway, called:

The WITNESS: Mr. Chairman, Mr. Minister and gentlemen. I may say I have not prepared any presentation for this committee. I had not expected that the representatives of the Canadian Trucking Association would once again present all the arguments that they presented before the Royal Commission where I did not spend the entire 39 sittings days but I think I spent 35. In so far as possible I shall avoid repeating anything that Mr. O'Donnell said and which he expressed much more ably than I can, nor is it my intention to go through the 4,727 pages of evidence and argument that we had before the Royal Commission..

May I say first that I am not expert on agreed charges and what I know about them I have learned from my participation in the royal commission's study, but from the evidence before the royal commission I can say this, as did Mr. Justice Turgeon at page 24 of his report, as to regulation of trucks. He said:

> Highway transport seems to have escaped the regulatory straitjacket because of its own essential characteristics, which are such as to make a comprehensive and effective regulation of rates a practical impossibility, and at the same time an almost superfluous step in so far as the public interest is concerned.
>
> Now, before the Royal Commission, Mr. Hume, Q.C., who was acting for the Canadian Truckers Association said, as to regulation—and I think he was quite frank about it—this is at volume 35, page 4,172 of the report. He was talking to the commissioner and he said:
>
> You will recall that I said in Ontario and Quebec, the two places where trucking is important, there is no rate regulation in either one of those provinces.

That was the very frank admission by counsel for the Canadian Trucking Association.

Mr. Magee today is hopeful of regulation in New Brunswick and Ontario. That we have found is a hope that never dies. I wish to quote again from something that was said back in 1937 and which again was reported to the Royal Commission:

> In the Hansard report of proceedings before the Standing Committee of the Senate of Canada on Railways, Telegraphs and Harbours for February 19th, 1937, when the bill to enact the Transport Act was under consideration, Mr. Pape, who was then representing the Automobile Transport Association of Ontario stated, as reported at page 201 of the Hansard report of proceedings, that they had regulation in Manitoba and Saskatchewan and that they would have it in Alberta before the first of April 1937. He stated that in Ontario they had made a very definite attempt to get regulation.

Again,

> In the Hansard report of the proceedings before the Standing Committee of the House of Commons on Railways, Canals and Telegraph Lines also in respect of the Transport Act for May 12, 1938, Mr. Patten,

> the executive secretary of the Canadian Automotive Transportation Association, said as reported at page 128 of the Hansard report, that New Brunswick had provided for regulation of certain truck rates and that Nova Scotia had similar legislation. He said that in Ontario there was a provision for making regulations for the publishing, filing and payment of tolls, but the necessary order in council had not yet been passed to make them effective. He stated that British Columbia required the filing of tariffs and the observance of tolls, and referring to a statement of Mr. Walker on behalf of Canadian Pacific that the trucks were not regulated in any measure whatever, said: In the contrary, they are very much regulated, as anyone knows who takes the trouble to find out.

According to the statement made before the Royal Commission 16 years after these statements were made the Ontario order in council has not yet been passed. Alberta has no regulation whatsoever, and New Brunswick which was stated to have regulations in 1938 has none although we are told it is going to take action, and Nova Scotia has abandoned any attempt to regulate. Counsel for the Canadian Trucking Association, stated before the Royal Commission that in Quebec they have to file rates, but there is no provision whatsoever for their enforcement. It was likewise stated before the royal commission, again by counsel for the Canadian Trucking Association, that at the meeting of the provinces in Manitoba last year as to inter-provincial trucking they agreed there that it was not practical to attempt to regulate rates on inter-provincial trucking. Therefore, the situation is that in the provinces where the competition really exists there is no attempt to regulate rates and in inter-provincial trucking the determination of the provinces apparently is that they will not attempt to regulate rates.

I would like to touch briefly on the suggestion that as the result of agreed charges the trucking industry might be destroyed. That again is not a very new story. When the Transport Act was first introduced in 1937, a statement was then made by Mr. Patten, executive secretary of the Canadian Automotive Transport Association, as found at page 129 of the Hansard report of the proceedings and evidence in respect of Bill No. 31, as it then was. He said:

> There is no doubt that the two big railways with their 4·5 billions of capitalization behind them can easily cut rates far below cost and keep them there long enough to put the trucking companies out of business if they wish to use agreed charges in a predatory way. Even the largest of the trucking companies have only a few hundred thousand dollars capital and the great majority of the operators have but a fraction of that. None of them can draw on the public purse to meet its deficits as one of our great railways does. They cannot afford to operate for any extended period of time at a loss. The railways can and do.

Now, that statement was made in 1938 when the trucking industry was comparatively small. I am not going to repeat the figures that were given to you by Mr. O'Donnell just before the adjournment this afternoon, but the trucking industry has expanded greatly and is continuing to expand. No one disputes that there is a place for the trucking industries just as there is a place for the railways. On behalf of the Canadian Trucking Association an expert witness was brought up to testify before the royal commission—a Mr. Knudson, former commissioner of the Inter-State Commerce Commission—and he described on their behalf the great importance of truckers. He was not too familiar with the principle of agreed charges. He was questioned at

length and the summary of his answers is given in the transcript of the royal commission hearings. The summary was not disputed, I might say. It is found at page 4050. The summary of his answers stated briefly was this: with railway costs being on the whole much less than truck costs, the railways if they so desired could through the medium of competitive rates affect the truck industry at least as much as they could through the medium of agreed charges. Secondly, he said that in some instances where terminal and like costs make the truckers costs less than the railways, that trucks can retain traffic by quoting rates below those which would be compensatory to the railways, but he said there were few instances where the railways costs were even higher than the truckers. The few instances would be on short hauls where terminal costs became very high. But finally and more important Mr. Knudson said that irrespective of costs the question of convenience and service will always attract a large amount of traffic to the trucks.

One of the members sitting here today leaned over and asked me if the railways would ever really compete, let us say, with the truckers who were carrying automobiles from Oshawa to Ottawa and I gave an answer—and I was not convinced it was right, but I have checked—and the answer was no, that in a distance of that kind where the truck can take goods from the factory and deliver them at the door and where the distance is comparatively short, the railway cannot compete on the combined basis of service and cost; and there are many other instances particularly on the short hauls where the truck has a tremendous advantage. I think it was frankly stated before the Royal Commission that irrespective of distance, for instance in a case of household furniture, that a truck had a tremendous advantage. The truck could come to your door and put goods in and they did not have to be packed and unloaded from a box-car and it did not matter whether you were going from Montreal to Ottawa or from Montreal to Vancouver. There are certain types of business —sometimes it is the question of the distance and sometimes a question of convenience—where it is very, very important to have something done quickly; to take it from door to door and not to have trans-shipment and then the truck can beat the railway completely. Where you have real distance and where convenience is not so important—and the railways are obviously fighting to give that convenience in so far as they can—where the convenience is not so important then the railway can beat the truck on cost. The railways' costs with very few exceptions are so much below the trucking costs that if they were on a straight question of cost on any great distance then the truck has not a chance. You can do it by competitive rates or agreed charges and if it is on a straight question of cost the railways can cut costs and still put the trucks out of business if that is what they want to do; but it has never been suggested by the railways that it would be proper to try to put them out of business. They each have their proper economic sphere in which they should each play their part.

Canada is an exporting nation and it is important that within reason exportable goods should be kept in what we call the low rated classes of traffic, the traffic which pays the lowest rates. Thus on the products of agriculture, the mines and the forests comparatively low rates are charged. They are the classes of traffic which Mr. Magee said the trucks did not want. You can appreciate why; there is not much profit. This scale of rates was not made for the railways; it was in the interest of the national economy to keep these lower rates and also to keep the railways solvent. Some of the traffic has to pay a higher rate and some of the traffic can afford to pay the higher rate. I can give you a very extreme example. For instance, a carload of diamonds could afford to pay a far higher rate than a carload of coal. To get into something more appropriate, might I say a carload of silk can afford to pay a higher

freight rate than a carload of vegetables, and that is the type which has been characterized as the type of goods in which the trucks only are interested. So long as the railways can get the higher rates on the higher rated traffic so long can they afford to charge the low rates on the low rated traffic and particularly to carry the goods Canada is exporting.

Again the record of the Royal Commission shows that 18 to 19 per cent of the traffic carried by the railways pays ⅔'s of overhead. That comes from the high rated traffic. On the low rated traffic, largely exportable goods, they are just making a little above—and I may say in some instances they suggest a little bit below—the amount necessary to make these rates compensatory. The only way they can continue to carry the products of the forest and agriculture and other like products at rates which make it feasible to put them into the export markets is to be able to maintain this rate structure under which the higher rated commodities which can afford to pay the rates pay somewhat more.

May I say that it does not cost more on the average to carry a carload of high rated commodities than low rated commodities, but this rate structure was built as part of the Canadian economy and as part of the Canadian economy it was found necessary that the railways should get more for their traffic even though the cost of carrying might be the same where the traffic could afford to bear the costs. That is where the trucks come in. The manufacturer who is manufacturing his high rated traffic is perfectly happy if he can get somebody to carry it a little cheaper. The trucker goes to that shipper and says: "I can afford to carry it for less." Now, I said it is quite clear from the record that the railways' costs are so substantially lower than the truckers' costs that they can compete on the basis of cost anytime and it is quite obvious that they can say to that shipper, "We can also take your traffic for less." But if they carry his for less and are going to remain solvent, then they are going to have to raise the rates on the low rated traffic and that will not only affect their business but also the Canadian economy. They can cut the rates. The railway companies could cut the rates on the high rated traffic below the trucking companies and still make a profit. That is, outside of some of these short hauls. On the average they can cut their rates below the trucks and still make a profit. But if this war goes on and they cut and cut—and someone suggested before the Royal Commission that that was a way to do it; you cut and the trucks cut, and they cut again and you cut again and very soon the trucks will call it quits because their costs are so much higher. In the last resort you would have that rate cutting war until the trucks, as one said, would call it quits. But in the process you would have reduced the railways' revenues on their high rated traffic down so low there would be only one of two answers. They would have to raise the rates on the low rated traffic or go bankrupt.

How does the agreed charge fit in here? The agreed charge puts an end to the rate cutting war. There was an example which I think Mr. O'Donnell mentioned this afternoon. The trucks in Manitoba and eastern Saskatchewan began to carry butter and the railways saw that they were losing this traffic in carrying butter and they cut the rates and then the trucks cut rates and that could have gone on indefinitely until as somebody suggested the trucks would have called it quits. But instead of that the railways came along and said to the butter producers out there, "Here, the rate is such that we will give you a slightly lower rate if you will guarantee to us say 75 per cent of all your shipments for the next year." That did two things: one it guaranteed the traffic to the railway for the next year; secondly it guaranteed to the butter producer his transportation costs so that he would know at what price to sell; and thirdly it stopped the rate cutting war.

Now we could have gone down and down in the rates until they stopped in any event but that would have cut the returns to the railways. It would still have been at a profit but not at the profit which it should have been if some other class of traffic which could ill afford to pay were not to be increased in its rates. So that all the agreed charges does in this bill with this small amendment is to say to the railways "you can go out and bargain with the shipper and you and the shipper make the best bargain you can." That is to the advantage, first, of the railway companies, for the railway has a bargain under which it is sure it is going to get a certain percentage of traffic. It can make its plans as to the allocation of cars and the purchase of equipment. It is of advantage to the shipper because the shipper can make his commitment for the next year with certainty at least that his transportation costs are fixed. He may be able to make contracts in other respects also which would fix his other costs, and the traffic is retained to the railways at not too great a reduction in the rates and it takes the impact off the low rated traffic which in the interests of the national economy should not be increased too much.

I listened with interest this afternoon to certain questions asked as to the loss leader problem. I think, perhaps, what I have said would answer that in part already. The railways do not have to have loss leaders in order to meet truck competition. Railway costs are so far below the truckers costs that they could cut rates below truck costs and still make a profit; so that the question of cutting the rates down to a point where the railways as such are making a loss could only arise in a very few instances where it might be a very short haul, and in those cases there is no attempt and there never has been an attempt to try and make these agreed charges.

The agreed charges are, if you will look at them, almost universally in what you would call the comparatively long haul and I hope no one asks me what a short haul is or what a long haul is because the answer seems to depend on the district you are in, but I think we all appreciate what is the difference between a comparatively short haul and a comparatively long haul in dealing with transportation. This question arose before the Royal Commission and at page 482 of volume 6 the matter was fully discussed and Mr. Justice Turgeon had it all before him. For example, I take the case of Mr. C. D. Edsforth, who was asked by Mr. Spence:

> So I take it Mr. Edsforth that you never make an agreed charge at a rate that is not compensatory?
>
> Answer: We never make any rate voluntarily that is not compensatory, be it an agreed charge or any other. We will not intentionally do so.

You will note that there is always a possibility that having made a rate, by reason of the impact of rising costs or the rising prices of material or wage costs or something else it might prove for a short period to be non-compensatory, but it was clear that in the long experience of the railways both in competitive rates and agreed charges there has never been a case where they have been disallowed on the ground that the Board of Transport Commissioners or the Board of Railway Commissioners which preceded it had found the railways had given rates below their costs. I think—I have not the reference now, I am speaking from memory—that this very question came up before the royal commission as to whether the question of compensatory or non-compensatory rates should go into this legislation. I might say that every question which has come up today was debated at length before the commission. I think I spoke in argument alone, during the course of the proceedings on various points for almost two full days, so members of the committee can see the breadth of the discussion which took place and the detail in which it was

considered. As I recall, Mr. Justice Turgeon said: "What has been the experience?" And then they brought in the experience and it showed that there had never been a case since 1903, when the Board first came into being, where the railways had been shown to have tried to put in a non-compensatory rate, and the remark made was: "Legislation is supposed to be remedial. Here we have half a century of proof that we have reasonable management and that it is looking after the business of the companies and have not tried to do these things. Are we going to put some words in there just for the sake of doing it?" You have responsible management of the two railway companies. As you know in both cases the people charged with appointing or electing management have chosen it on the basis that they are going to do a good job and the fact that you have to tell them that they are not to waste the railways' money is perhaps an indication that there is a lack of confidence in them, particularly when they have half a century of proof that it is not necessary.

I just wish to point out in passing that agreed charges are not only used in competition with the truck industry. Inasmuch as representations have been made by the trucking industry today we might forget that agreed charges are used for many other purposes. Part of the evidence before the royal commission showed that agreed charges were used to allow Eastern industry to get into the British Columbia market in competition with foreign industry in connection, I think, with steel pipe and other steel products. As the result of foreign products coming in by water they were shut out of the British Columbia market and from other Western markets and they made an agreement with the railways under which they both agreed to do something: industry in the East of Canada agreed to cut their profit and the railways agreed to cut their profit and they made this agreement which allowed the railways to make some profit which they would not make at all if there were no shipments, and it allowed Eastern industry to make some profit which they could not possibly have been able to make if they could not sell in the British Columbia market, and as a result both the railways and Eastern Canadian industry were helped.

You might ask why the water carriers are mentioned in this Act—why, for instance, they are allowed in clause 33 of the bill to come in and if necessary to complain when all water carriers are not allowed in there. It is only the regulated water carriers—and the term water carrier is defined as meaning those subject to regulation under the Transport Act—who are admitted. When the Transport Act was first negotiated in 1938 it not only brought into effect the right of the railways to go out and bargain with shippers and make a contract with an agreed charge, but for the first time the Transport Act imposed regulations on certain of the inland water carriers and these inland water carriers—those on whom regulation was imposed for the first time in 1938—had long standing agreements with the railways under which part of a route might be by water and which part might be by rail and they had differentials under which the amount of rate for shipment was divided between the two, and these long standing differentials, it was felt by parliament, should be maintained. The reason why provision was made for the regulated water carriers to come in and complain was to permit them to come and say "you are doing something which is in violation of long standing arrangements as to the division of rates or other matters." So much was that so that I think the only case in which the section of the Act was used was where Canada Steamship Lines came and complained that the railways were making some of these charges in which they were entitled to participate, and I think that case went all the way to the judicial committee of the Privy Council and I also think that Canada Steamship Lines won.

But that was the purpose of section 33 and I think that was the primary purpose of the present one, in so far as water carriers are concerned. You will note the proposed changes in section 32, and I think there is an arrangement now that the regulated water carriers can participate in any of these agreed charges that are made. That was not in the prior Act, and that was one of the matters which would give rise to a dispute as to whether they could have the right to participate, or whether the railways were making an agreement which violated the long standing arrangements with these regulated inland water carriers. But there has never been any suggestion, even in 1938 when this matter was before parliament, nor did anyone appear before the royal commission to suggest that anyone other than the regulated inland water carriers should have any right to appear and make any complaint or any other representation either to the minister or to the board. The unregulated carriers could do what they liked because no one knew what they were doing, and they felt that there was no reason for them to come in and say that they had a right to interfere, when no one even knew what they were doing, and no one attempted to interfere with what they were doing.

I wish to deal with the amendment suggested by the Canadian Trucking Associations. The Canadian Trucking Associations say that they wish to have the right to complain about agreed charges made by the railways. The railways may make an agreed charge. The term seems to imply something unusual. We would ordinarily say that they make a contract for the carriage of some stipulated percentage of a shipper's goods at a stipulated rate. They must publish it and let the world know about it, and if they make it with one shipper and publish it as required by law, then they must give exactly the same treatment to any other shipper who might suffer unjust discrimination by reason of that contract.

A trucker may make a secret agreement. In fact the past president of the Canadian Trucking Associations stated in evidence that it was very common for him to make an agreement with shippers just by a handshake. He said "we do not stipulate any fixed percentage, but that we will carry a certain proportion of their goods and we abide by that." But a railway cannot do that. The railway, if it makes an agreement, must file it, publish it, and make the same thing available for any other shipper who might claim that there was unjust discrimination.

In the case of the trucker, the railway does not know he has made any such agreement. There is no way of finding out; and he can make an agreement with one shipper, and no other shipper would have the right to complain, or ask that he carry his goods at the same rates.

I respectfully submit that the suggestion that the truckers should have a right to complain, or that anyone should consider the fact that they, the truckers, or even the railways should be given a preference in a competitive market is, I submit, wrong in principle. The public, in my respectful submission, is entitled to the cheapest transportation available, and it should have the right to bargain for it just like a customer of any other industry has the right to bargain, and that one industry or another industry may be hurt in the process is a result of the normal process of competition.

The truckers were able to make a better bargain with the shippers than the railways, and they took some business away from the railways. The railways now, by the Transport Act in 1938, and by a certain relaxation of the regulations in the present bill, are being given only one thing, and that is the right to go out and bargain with the shipper. The trucker has the same right to go in and bargain in competition with them, and if the railways cannot give a bargain which the shipper is ready to accept, then they are not going to get the business. And if the railways have a better product or a better price,

then they are going to get the business, just as any other industry does; and if they have not either they are not going to get it. And if it suits the shipper by reason of the fact that he gets a better or faster transportation to ship by trucks, that does not matter; but if the railways can go in with a combination of service and price and say that they have a better product, what is the difference between the competition between the railway and the trucker and the competition between two departmental stores, or the competition between two manufacturers? If one has a better product, then he is going to get the business, and the others should not come running to parliament and say "I do not think he should do it. I think he is giving a better product for a better price, or is giving better service, and it is hurting me, so stop him." On that basis, we would still have a very substantial buggy business.

The railways are asking for nothing but the right to go out and bargain in a competitive market. You might ask: what does it matter if somebody has the right to go in and make a complaint? It does not matter too much from the point of view of the railways. But let us take the position of the shipper. This comes easily to me because we went all through this several times before the royal commission.

There was a shipper, as I recall it, in Selkirk, Manitoba, who made an agreed charge with respect to some form of steel. He has a contract out in British Columbia and he makes an agreed charge under which the railway for a period of a year is going to carry his steel products to British Columbia. He can then make his contract out in British Columbia for supplying it, or for construction, knowing that his transportation costs are going to be fixed, and he can make his contract with some certainty as to that one factor, and perhaps other factors of which he knows—he may have fixed a labour agreement—which permits him to make his contract with certainty as to the costs. But if we widen this right to come in and complain in so far as the railways are concerned, they may, with their knowledge of railway law and with their studies of costs and other matters, be absolutely certain in their mind that after investigation his complaint is going to be found to be unjustified. But what about the shipper? He is not an expert in railway law; he has not made all these studies of costs, and he is left in a state of uncertainty: "Is this thing going to upset the agreement under which I have committed myself for a contract at a certain price? I may find that the contract I have made as to my transportation is going to be upset?"

He is the person who is most affected by all these well-intentioned efforts to allow every one to have his say. But the more people who have their say in respect to the validity of a contract, the more uncertainty there is going to be in the minds of people bound by that contract.

The railways, having been through this thing hundreds of times, and having been prepared for it, and having made their studies, they may say: "Do not be worried!"

But the man on the other end of it, who may go bankrupt by having quoted too low a price, is going to be uncertain, and is going to doubt whether he should make a commitment which may be upset by some aspect of the regulatory process.

Now, as to the right of the truckers to appear, I suggest there is very little difference between the present position and that which existed in 1938 when the then Minister of Highways and Canals, the Rt. Honourable Mr. Howe, had to deal with this same subject before parliament and as found in volume 4 of the transcript of the House of Commons debates on page 3,569 for the year 1938 where the following question and answer appears:

> Mr. BARBER: One point which came up in the committee was that those engaged in highway transport would not be able to appear before the board, because they do not come under this bill.

Mr. Howe: That is correct. Those engaged in highway transport have all the privileges granted to shippers under this legislation, with the additional privilege that their rates receive no publicity whatever. They are allowed to and they do make contracts every day with the greatest secrecy. As the regulated transportation companies have no right to interfere in the agreements made by the highway transport companies, it was felt that the highway transport companies should not be allowed to interfere with the regulated companies in the making of rates.

Again at page 3,570 there is this statement made by the minister:

The main opposition came from the motor transport and the bulk water carrier interests. These interests are left free to act in any way they like, and my personal opinion is that it is rather impudent that they, having the freedom of action they have, should insist upon taking a part in the regulation of regulated carriers.

I suggest, Mr. Chairman and gentlemen, there is no apparent difference in the situation now. Thank you very much.

The CHAIRMAN: Does the committee wish to ask Mr. O'Brien any questions?

Mr. HAHN: Could you tell me off hand if feed grains are carried to British Columbia at the same rate—

Hon. Mr. MARLER: You are getting outside of legal questions, Mr. Hahn.

The WITNESS: I am afraid you are away out of my department. I would like to answer your question and I will find the answer, but as I frankly admitted at the outset of my remarks I am not an expert on agreed charges. I participated as counsel in the royal commission and learned a great deal about agreed charges. I will get the information if you like but I know nothing about it.

Mr. HAHN: I was wondering about the compensatory price value on this—the rate, rather—just exactly how that was taken into consideration in view of the fact that they have increased the price of feed grain by $1.05 a ton to the Pacific coast. Would that enter into it? Would that make it possible to bring the agreed charge down? Were the two things not taken into consideration?

The WITNESS: I might say in the first place I know nothing whatsoever about the change in rates. I am so ignorant about the subject I think perhaps I should remain silent.

Mr. HAHN: Perhaps we could discuss it when we come to the other matter we spoke of earlier.

Hon. Mr. MARLER: Personally, Mr. Chairman, I do not think it is relevant to the subject of agreed charges. I think it has something to do with railway rates, but I do not consider that it is relevant to the subject of agreed charges which, as I think we all understand, is not a process of rate making, but is a process of agreement making between shippers and carriers.

Mr. HAHN: Yes, I can see that, Mr. Marler, but the values and rates come into the picture. Is this figured in on the rate or is it just for those particular products? Are all rates taken into consideration and all haulage when you are finding the rate?

Hon. Mr. MARLER: I think, Mr. Hahn, if you will look at section 334 of the Railway Act you will see there an example of the kind of thinking that comes into the consideration of a rate. I do not mean of all rates, but I mean of a particular rate. I think if you will look at that section you will find it very informative, but I am not suggesting that it applies to the agreed charges.

Mr. HAHN: Section 334?

Hon. Mr. MARLER: Yes, section 334 of the Railway Act which is merely an indication of the demonstration that the railway companies might be called upon to make by the Board of Transport Commissioners on the question of whether or not the rate was compensatory.

The CHAIRMAN: Mr. Green, you wanted to speak to Mr. O'Donnell.

By Mr. Green:

Q. Mr. O'Brien, I thought I understood you to say that the agreed charge puts an end to the rate cutting war?—A. Yes, I said that.

Q. That was your statement?—A. Yes.

Q. And I take it that is the main purpose of the railways in extending their operations in the field of agreed charges?—A. The main purpose of extending their operations is to permit them to go out and contract freely just as anyone else can. In answer to the statement made this morning they could do it as well with a competitive rate.

Q. Yes, you said that yourself.—A. They could not do it as well from their own point of view or from the point of view of the economy. They can go below truck costs with competitive rates instead of making agreed charges, but the impact would fall on the low rated traffic.

Q. Your company agrees that the agreed charge is the most effective way to put an end to the rate cutting war?—A. Yes, I think everyone agrees to that. It is just a question of what the impact is on competition.

Q. It is just a case of tying up the traffic so there is none left for the truck.

An Hon. MEMBER: Oh no—

Mr. GREEN: Let the witness answer.

The WITNESS: I might say I am not familiar with all the agreed charges, but there are agreed charges which call for 100 per cent and there are those which call for 75 per cent and I understand there are those that call for 55 per cent of the traffic, but that is not all of the traffic of the shipper. It is all of the traffic between designated points. In agreed charges I have seen and I think I am fairly familiar with them—let us take the automobile companies for example—I think that General Motors has an agreed charge with the railways under which 75 per cent of their automobiles shipped to western Canada will be shipped by rail, but I think on the other hand that Ford and Chrysler have another percentage at another rate, but it is only from there to western Canada. The trucker, if he can compete, is perfectly free to carry in any other direction.

By Mr. Green:

Q. But the effect of the agreed charge is to tie up as much of the business of a particular company as possible?—A. Just like any other person in competitive business would try to do, yes sir.

Q. As a matter of interest, why is it that it has taken the railways 17 years to wake up to the possibilities of the agreed charge?—A. I am not part of the management of the railways, Mr. Green, but I think I can perhaps give certain answers. The agreed charge legislation, as you know, came in in 1938. This was immediately followed by war. During the wartime period, there was probably no reason for anyone to go out and compete and then you had that period after the war which was a period of reorganization which fully occupied them. Meanwhile you had the tremendous growth of the trucking industry partly due to the war and partly due to an increase in business, and the tremendous impact on business because they got into many aspects of traffic that they had never expected to get into due to the railway strike in 1950.

Q. The railways have just recently wakened up to the fact that so much of this business was going to the trucks, is that right?—A. There again I am not part of railway management, but I do not think that is quite correct, sir. I think they have wakened up to the fact that if they are going to be able to compete with these unregulated carriers that they need more freedom than they have had in the past. Mr. O'Donnell mentioned—I think in connection with the application of General Motors or one of them—that they went out and made the agreement and then came this famous exhibit 50 of which he speaks—a memorandum of a Canadian Trucking Associations member—which frankly said that they were going to try and find a shipper who would go in and make an objection to it and at least delay it. I do not know whether or not they found one, but the shipper certainly came in, and the contract having been made, the manufacturer was not able to ship at those rates, and the railways were not able to get the traffic for several months while the thing was stymied before the Board of Transport Commissioners. So they found that the regulatory process did not allow them to compete in a competitive market and they came along and said, "Will you fix it up"?

Q. You mentioned one unregulated truck business?—A. Yes.

Q. In some provinces certainly these trucks are very strictly regulated?—A. I think it was pretty well agreed, in view of all the evidence before the royal commission, that whatever the laws might be there is no regulation whatever in Ontario as to rates.

Q. There is in Quebec, is there not?—A. The statement by counsel for the Canadian Trucking Association was they were called upon to file tariffs but there was no attempt to regulate them and he ended up by stating that effectively there was no regulation in Quebec or Ontario, two provinces in which trucking competition was the heaviest.

Q. Was that the evidence here before this committee?—A. I quoted the statement of Mr. Hume, counsel for the Canadian Trucking Association made before the Royal Commission.

Q. That is contrary to the evidence this morning.—A. I did not compare the two statements. He made that statement in argument before the royal commission and said effectively in the two provinces where truck competition was the most intense there was no regulation of rates.

Q. Does the Canadian Pacific Railway Company have any objection to writing into section 32 of the bill a provision that these agreed charges must be on a compensatory basis?—A. I have no instructions on that. I may say that that again was discussed before the royal commission. I would think that if I had instructions that they would object. If I might give the reasons as I would see them personally they are that here you have management which is supposed to be honest and supposed to be intelligent and is not supposed to be—

Q. Nobody is disputing that.—A. —I was going to say, sir, that it is about the same thing as if I was making a contract under which I was to become general manager of a firm and they tried to put in a stipulation that I at all times should be honest, I would say I object to the implication. We discussed the whole question before the royal commission and there the chief commissioner asked if in the 50 years of experience of competitive rate and agreed charges there had been any case where the railways have been shown to have tried to put into effect a non-compensatory rate, and the answer was no. Then why should we say to the management of these railways who have shown themselves to be competent and honest in this respect, "we are going to have to tell you to do something which you have always done."

Q. Can I take it from that that the C.P.R. would not object to a provision being written into the Act which only in effect sets out that they do what they have been doing all down through the years?—A. I must say—and I have no instructions on it—that the management would feel they were being told to do something leaving the implication that it was necessary to tell them to do what has always been done honestly.

Q. You think they might be insulted if there was a provision of that kind made in the section?—A. I would certainly feel that way if somebody said to me after 50 years of honest management "You have to continue to be honest".

Q. Of course it is not a question of being honest at all, it is simply a case of writing into the law that these agreed charges must be on a compensatory basis, and not below cost, something like this say as section 32 (6) (*a*) of the bill:

> Every agreed charge shall be compensatory, that is to say such as will improve the net revenue position of the carrier.

—A. I would say with respect in so far as I see it we would have nothing added to the present bill. In the present bill, after three months, anyone can complain and if the complaint has been in any way justified it is referred to the board and the board is then instructed under the legislation to see what the effect of the agreed charge is on the net revenues of the railway. Obviously the only purpose of the inquiry is to see whether or not the rate is compensatory or more than compensatory, whether they are making a profit. I have said that it is not necessary to make them non-compensatory to meet the trucking competition but if they ever tried it the first time their knuckles were rapped for doing so I do not think they would try it again.

Q. Then you mentioned about the shipping. What shipping comes under the Transport Act?—A. West of the Island of Orleans and on the Mackenzie river basin.

Q. In other words the shipping in the Maritimes and lower St. Lawrence and west coast does not come under the Transport Act?—A. It is completely unregulated as far as I know.

Q. And companies in that shipping business under this bill will not have the right to participate in the agreed charges?—A. Nor have we the right to investigate what they are doing.

Q. And they cannot protest?—A. No, sir, nor can we.

Q. The C.P.R. is in business on the west coast and do they not have any such arrangements tying in their rail rates and their shipping rates?—A. Again you are getting a little beyond the ambit of my knowledge, but I would say I think that possibly there is regulation of the rates from Vancouver to Victoria. I think that part is covered by the railway tariffs. I think apart from that they are completely unregulated.

Q. Under this bill would it be possible to have an agreed charge covering that shipping from Vancouver to Victoria?—A. Under the bill as I understand it, the only carriers who participate are the regulated water carriers and the railways with the sole exception of some intermediate carriers in the United States who have to participate in forming a joint line through the United States say from Toronto to Vancouver.

Q. Then you said there is another reason for using these agreed charges and that was to compete with water borne freight to the west coast.—A. Not only water borne freight but with foreign markets, people who by reason of probably lesser costs combined with water borne freight arrange to lay down their goods at prices lower than the Canadian manufacturer was able to do.

Hon. Mr. MARLER: By shipping through the Panama Canal?

The WITNESS: In some cases.

By Mr. Green:

Q. In addition to enabling you to fight the truckers are these agreed charges also designed so that you can compete with and possibly put out of business a shipping line from the east coast to the west coast through the Panama Canal?—A. Certainly we would hope to compete and again there I think the railways are perhaps in the position that the truckers are in respect to the railways. The railways can by reason of fast service even at a slightly higher rate or maybe a substantially higher rate in some cases compete, as likewise the railways if they want to get the traffic may try to get a year-round contract for a fixed percentage.

Q. Has this not been done in the past: that you cut your rates to the west coast in order to put a shipping line out of business and then put your rates up again?—A. Not to my knowledge, and I can say that very frankly because my knowledge is not very great as to the past but there was a very full debate in respect of competitive rates and in respect of water traffic and they did not mention it at any time before the royal commission.

Q. Was there not another reason for these agreed charges, namely to avoid the one and one third rule on the transcontinental rates?—A. Again I can only state what was said in evidence and again there was a very full discussion. Under the legislation of some four or five years ago a provision was put in the Act under which the rate to intermediate points could not be more than one third higher than the competitive rate to the coast. According to the evidence before the royal commission the effect of that was such that the combined traffic to the coast and to intermediate points was giving a substantially lower return to the railways than it had been, so in the circumstances they increased the competitive rates and lost the business. If they had not done so they would have lost still more on the traffic to the intermediate points. So they found that in order to try to get back and allow the manufacturers to get back to the British Columbia market the agreed charge should be used. Might I say, sir, that the royal commission was instigated because of a complaint of the province of Alberta in respect of the one and one third rule and that was fully investigated and the commissioner found that the complaint in his view was not one which should be entertained.

Q. The effect of the agreed charge apparently is to cut the freight rates for one group of shippers—the people who actually enter into the agreed charge. Where does the money that is lost on those deals come from? Perhaps I should not use the word "lost". Where is the money which is sacrificed in an agreed charges deal made up?—A. If I may put it this way, it is like any other business. The railways have a certain amount of business and if they can get more at a profit by an agreed charge they would be foolish not to do so. If they do not make the agreed charge they are going to lose that profit, and if they lose that profit—and remain solvent—the other traffic is going to have to pay for it. So they do not lose by the agreed charge. They gain. And as Mr. O'Donnell pointed out, the way bill study shows that the average revenue per ton mile under agreed charges was higher than that on any other traffic carried by the railway.

Q. Does that not mean that some of the load of freight rates is shifted from the companies which have agreed charges to the shippers who have not?—A. I would think that the inference is the exact opposite. If the railways did not have this benefit, the consequences of not having it would be to shift the burden to other traffic.

By Mr. James:

Q. We had some information from Mr. O'Donnell this afternoon about the system in use in the United Kingdom. Have you any information about the United States setup?—A. Very little, except to the extent that there was some evidence before the royal commission that in the United States they have regulation both of trucks and of railways by the Inter-State Commission. They are both regulated.

By Mr. Hosking:

Q. Do I understand you to say you give the same opportunities to any company to get in on an agreed rate? If you make a deal with my competitor you would also make one with me?—A. We are obliged by law to do so. We have no opportunity to refuse.

By Mr. Carrick:

Q. Questions have been asked concerning the right to appear, and in the course of the discussion you brought out that there are regulated carriers who are competitors and who do come in, but that there are unregulated carriers who do not come in. I was just wondering about other persons who might be competitors of the railway—is T.C.A. in any way a competitor of the railway?—A. I would say that any transportation agency is a competitor of the railway.

Q. Theoretically if you are giving the right to one you would have to give it to everybody.—A. You would have to.

Q. I am not saying that T.C.A. is unregulated.

The CHAIRMAN: Are there any further questions?

Mr. GREEN: This afternoon I neglected to ask Mr. O'Donnell about one subject. Did you say in the course of your evidence that the railways were not able to appear before any of these provincial boards in order to protest increases?

Mr. O'DONNELL: I do not remember saying that, Mr. Green.

An Hon. MEMBER: It is a fact, though.

Mr. O'DONNELL: I do not remember saying that but I am under the impression that in so far as boards that deal with franchise are concerned that on occasions the railway people do appear, and indicate to the board that they feel as a matter of convenience and necessity the granting of franchises may or may not be necessary in the public interest but they make no representations regarding rates. They have no right to do so and they do not do so.

Mr. GREEN: Is it not a fact that there was a decision by the Quebec Transport Board, or whatever the authority is called, on June 13 of 1954 in the case of the Association Transport Routier; that the Canadian Pacific Railway and the Canadian National Railway appeared, and that the board made a finding that the railways would be heard on all these occasions?

Mr. O'DONNELL: I cannot say definitely about that. I myself am not familiar with it.

Mr. GREEN: I have a copy of the judgment.

Mr. O'DONNELL: I have heard of a judgment but just what it said or did I was never interested enough to try to find out.

Mr. GREEN: The final paragraph of the judgment is:

> Therefore it has been decided that, the objection of the Attorney of the Trucking Association of Quebec, Inc., cannot be accepted by the Board and the Railway companies are and will be authorized to appear before the said Board and thereto assert their point of view.

Mr. O'DONNELL: As I said, where it is a matter of the franchise, or a new one, where they feel that the public is sufficiently served by the existing transportation facilities which are available and operating, they make the representations that may be needed.

Mr. GREEN: Is it not a fact that the railways have the same right in Ontario?

Hon. Mr. MARLER: Before what body?

Mr. GREEN: Before the Ontario body which deals with such matters.

Mr. CARRICK: They used to appear before the Ontario Board but only on the grounds and for the purposes which Mr. O'Donnell has stated.

Mr. CAVERS: Mr. Goodman has appeared there as a representative on many occasions. Shall we call Mr. Jones? I think he is representing the Great Northern Railway Company.

Mr. D. H. Jones, representing the Great Northern Railway Company, called:

The WITNESS: Mr. Chairman, Mr. Minister and gentlemen: I have been instructed by the Great Northern Railway Company to appear before your Committee and to support the enactment of Bill 449 in its entirety, as it now stands.

The Great Northern Railway, which has been operating in Canada for almost 50 years, appeared before the Royal Commission on Agreed Charges and made a submission, the result of which is now to be found is sub-clauses 3 and 4 of the bill, and it participated throughout the whole of the hearing before Mr. Justice Turgeon.

The whole question of agreed charges is one which is foreign to the United States railway companies because they do not have agreed charges in the United States at all. The subject has been given careful study and the Company considers it most important that the Bill be passed in its present form. It supports the position taken by the Canadian National Railways and the Canadian Pacific Railway Company.

The representatives of these railways have dealt in considerable detail with all the questions which have arisen regarding agreed charges, and I do not propose to touch on them at all.

The first point that I would like to mention, however, is that the Bill is the result of careful and painstaking study by the Royal Commission on Agreed Charges and by the Government. The Company which I represent considers that its provisions are of vital importance to the railways at this time, and that the bill ensures to the shipper and to other modes of transportation, as well as to the public, all the necessary and adequate safeguards which are required in this kind of rate making.

The other point I wish to mention is sub-clauses 3 and 4 of the Bill. They are simply the legislative machinery, if I may put it that way, to ensure that the United States railway companies that operate, and have been operating in Canada, may continue to move Canadian freight in those circumstances where in the past they have been entitled, or have enjoyed the right to participate in the movement of Canadian freight. By that I mean freight between points in Canada, although part of the movement may have gone through the United States, and although it formerly moved under the normal published tariff.

The agreed charge, when made between the Canadian Pacific and the Canadian National Railways and the shipper, will, at that point be open to the United States lines for entry. They may then, as I understand the provisions of the Bill, become parties upon giving notice to the Board, so that they may continue to be in a position to move the traffic which they formerly moved under the normal tariff. Thank you. That is all.

The CHAIRMAN: Are there any questions?

By Mr. Green:

Q. The Great Northern Railway operates exclusively in Western Canada?—A. Yes, it does, sir.

Q. You have been getting a lot of business and taking freight down through the States rather than it coming across Canada and Canadian lines. How is freight of that kind handled?—A. How is that kind of freight handled?

Q. I mean freight originating in British Columbia and being taken down into the United States and brought through the States and finally brought back into Canada.—A. Let me give you an example of the movement of some commodity, starting at Toronto. There would be an arrangement with either the Canadian National Railways, or the Canadian Pacific Railway and their affiliates to move it to Chicago. Then from Chicago it would go over to the Burlington Railroad to St. Paul, Minneapolis, and then over the Great Northern to Vancouver.

Q. Will this Canadian freight which is carried on the American lines most of the way from Toronto to Vancouver, be subject to, or come under the advantage of these agreed charges as well?—A. According to the provisions of the present Bill, yes sir.

Q. I see. Then the Bill has broadened out to cover all this freight, which is carried primarily through the United States?—A. Yes. Perhaps I might put it this way: take the case of any commodity you like. Let us assume that up to now it has been moving under a normal published tariff of tolls. The Canadian Pacific and the Canadian National Railways approach the shippers of that commodity and negotiate an agreed charge. Well, if a line like the Great Northern wishes to move that traffic, or its share of that traffic—which normally has been a fairly small proportion of that traffic in comparison to the overall movement from east to west—then it would simply file notice with the Board and ask to be joined as a party to the agreement which had already been negotiated and made by the two Canadian railways.

Q. And that provision would be available for any of the American companies such as the Chicago and Wilwaukee or any other line running west through the States?—A. It is confined to those which operate into Canada. The Great Northern is one. The New York Central is another. There is the Chesapeake and Ohio, and I think there are two or three others in the east. There may be one or two more in the west which can qualify under that condition, and they are quite at liberty under these provisions, as I understand them, to become parties to the agreed charge.

Q. But you are the only railway in the transcontinental business that would be able to benefit from these provisions?—A. I think so, sir.

Q. You will be able to benefit by hauling freight right through to the west coast?—A. Yes, sir, although it might work this way: we will be able to continue to do the business which we have done before, that is, before any agreed charge or agreed charges came into effect which affected Western Canada.

Q. Is there any restriction in the bill which would prevent you from taking more of the business over American lines than has been the case in the past?—A. No, sir.

By Mr. Cameron (Nanaimo):

Q. What measure of control has the Board of Transport Commissioners got over your operations, just over the part from Vancouver to the boundary? —A. Over the Canadian part of our operations, yes sir.

Q. So that any agreed charge you might make would not alter the situation very much?—A. No.

Q. For the bulk of your operations you are outside the control of the Canadian Board of Transport Commissioners?—A. Yes, although we have to comply with the rules of the Board because we operate in Canada.

By Mr. Carrick:

Q. Would you come under the inter-state commerce commission with respect to your operation in the United States?—A. Yes, sir.

By Mr. Hahn:

Q. Would you expect to have an agreed charge of your own from Blaine to Milwaukee, and the balance from Blaine to Vancouver would come under the Canadian Board of Transport Commissioners?—A. No, agreed charges are not lawful in the United States.

Hon. Mr. MARLER: They are only provided for between points in Canada.

Mr. HAHN: That is the case at this time, but are there any regulations comparable in the United States which would permit you to carry on an agreement of any kind with respect to the hauling of freight?

The WITNESS: Not anything resembling the agreed charge, no.

Mr. BARNETT: I wonder if Mr. Jones could tell us whether the control of the Board of Transport Commissioners in respect to rates would apply for the total distance of shipment from a point in eastern Canada to a point in western Canada? In other words, can you quote the rate for the distance in which you are inside Canada which is based on Canadian rulings and a rate for the rest of the distance which is based on American port tariffs?

The WITNESS: I think it would have to follow this sequence, sir: if an agreed charge on some commodity was negotiated, and if the Great Northern or any other United States line wanted to move it from Toronto to Vancouver, as you say, they would have to move the traffic for the rate in the agreement and they would have to see that that rate was legal throughout the whole movement.

The CHAIRMAN: Thank you, Mr. Jones.

Mr. CAVERS: We have several representatives of steamships here, and I believe Mr. H. E. B. Coyne, Q.C., is representing Irish Shipping Limited and Saguenay Terminals Limited. Mr. Coyne, do you wish to address the committee?

The WITNESS: I appear for Irish Shipping Limited and for Saguenay Terminals Limited. With me is Mr. Jean Brisset, Q.C., of Montreal; Mr. Boyle, president of Shipping Limited, the general agent in Canada of Irish Shipping Limited, and also Mr. Batz, the treasurer of Saguenay Terminals Limited and Mr. Flavelle, general traffic manager of Saguenay Terminals Limited.

The two companies which I represent are ocean steamship companies, and the reason that they want to make representations before this committee is that they feel that they have no remedy under Bill No. 449 if an agreed charge is made which discriminates unjustly against them and in favour of their competitors. Their fears as to discrimination are well founded. The railways have discriminated against them in the past and are still discriminating against them. Until December, 1953 Irish Shipping Limited enjoyed

through bill of lading privileges. A through bill of lading is one under which, for example, an exporter would ship his goods from Toronto to Montreal and right through to Liverpool. A local railway bill of lading would only take the goods to Montreal, and the exporter would then have to get another local bill for carriage from Montreal to Liverpool. The advantages of a through bill are described by Mr. Boyle in evidence which is quoted in a judgment of the Board of Transport Commissioners. Mr. Boyle said, as given in the judgment of the board dated June 28, 1954 in the application of Irish Shipping Limited re issuance of through bills of lading by railway companies for export traffic:

> 'The advantages, as I see it, are these: shippers away out in western Ontario or maybe out in the middle west go to the railway company and get a through bill of lading. As soon as that through bill of lading is signed they have got nothing more to do about their shipments. They can take their documents to the bank and get their money. If they ship on a straight bill of lading they have got to wait until that shipment gets to the seaport, until the steamship company gives them an ocean bill of lading and so they have to get the ocean bill of lading back and so on. They are deprived of the use of their money in each case.
>
> Q. That is the principal disadvantage?—A. Yes. And another condition and a very important one is that once he gets a through bill of lading he forgets all about the shipment. It is in the hands of the railway and the steamship company whereas if it goes on a straight bill of lading he is worrying about whether it is down at the seaport and whether he is going to get through bills of lading out and in fact he has more clerical work to do. We feel in cases like that a shipper might drop our service and go to one of our competitors simply because he can get additional privileges.'

In December, 1953 the railways refused to continue to accord through bill of lading privileges to Irish shipping Limited and Irish Shipping Limited thereupon made a written complaint to the Board of Transport Commissioners alledging unjust discrimination and this is what the complaint said:

> 1. Irish Shipping Limited, hereinafter called 'the applicant', hereby applies to the board under sections 33, 34, 317, 319 and all other relevant sections of the Railway Act for an order declaring that the Canadian Pacific Railway Company and the Canadian National Railways have violated section 317 of the said Act and that the Canadian Pacific Railway Company and the Canadian National Railways and other members of the Railway Association of Canada have violated section 319 of the said Act, as hereinafter set out; and for such further or other relief as to the board may seem just and proper.
>
> 2. The applicant is an incorporated company owned and controlled by the government of the republic of Ireland. Its head office is in Dublin, Ireland, and its general agent in Canada is Shipping Limited, 410 St. Nicholas Street, Montreal. It is now actually operating six ocean-going vessels registered in Ireland, and additional six vessels are now being built, all of which have carrying capacity ranging between 7,500 and 9,500 deadweight tons, each capable of twelve to fourteen knots. Irish Shipping Limited now operates a regular liner service for the transportation of goods from eastern Canadian ports to ports in Ireland and occasionally to ports in England and Scotland, and in that service there are not less than two sailings per month during the summer months and one during the winter months.

3. Ocean carriers, other than the applicant, who engage in the same transportation service, have formed a closed association in Canada, known as the Canadian-United Kingdom Eastbound Freight Conference, for the purpose of fixing rates, for the transportation of agricultural, mining and forest products, manufactured goods and other articles of freight moving out of Canadian ports to England, Scotland, Wales, Northern Ireland, and the Republic of Ireland, and of fostering a monopoly of the said transportation service.

4. In pursuance of this purpose, the members of the Conference require Canadian exporters who desire to ship to the countries mentioned in paragraph 3 hereof by any of their lines, to sign an agreement beforehand whereby the exporters undertake to make all future shipments by their lines exclusively, and at rates set out in the agreement for the commodities listed therein and for the others at rates which are determined under a tariff prepared by the Conference, which is not made public and is not available to the exporters. Furthermore, the exporters are made subject to severe penalties if they ship outside the Conference and may, in fact, be deprived of the right to ship on any vessel operated by the members of the Conference. A form of the agreement is hereto attached and marked "A".

5. Canadian Pacific Steamships Limited, a wholly owned subsidiary of the Canadian Pacific Railway Company, is a member of the Conference.

6. Heretofore, to assist in the development and facilitate the movement of freight traffic originating in Canada and the United States of America, and moving to and through Eastern Canadian ports destined for foreign ports, the Railway Association of Canada was agreeable to issuing to exporters railway through bills of lading to cover such freight traffic from its inland point of origin to seaboard and from there to final destination in the foreign country, and, in order to provide these through bills of lading facilities to exporters, the Railway Association of Canada had entered into agreements with all ocean carriers servicing Canadian ports who were willing to cooperate with the Railway Association of Canada to facilitate the movement of such export freight traffic and in particular such an agreement was entered into between the Railway Association of Canada and Irish Shipping Limited on November 14, 1950. A copy of such agreement is hereto annexed and marked "B".

7. The Canadian Pacific Railway Company, the Canadian National Railways and other members of the Railway Association of Canada have since the month of December, 1953, embarked on a policy of actively assisting the Canadian-United Kingdom Eastbound Freight Conference in its purpose of monopolizing export traffic and fixing rates by issuing to exporters through bills of lading for goods shipped from inland points where the inland transportation is to be performed by a vessel operated by a member of the Conference and by refusing to issue to exporters through bills of lading where the ocean transportation is to be performed by a vessel which is not operated by a member of the Conference. In confirmation of the preceding statement is attached a copy of a letter dated November 9, 1953, from Mr. J. A. Brass, General Secretary of the Railway Association of Canada to Mr. A. L. W. MacCallum, C.B.E., General Manager of the Shipping Federation of Canada, Inc., and marked "C".

That letter which is quoted in the board's judgment is as follows:

Dear Mr. MacCallum:

Your letter November 4th, file B.4-17, enclosed copy of communication you had received from Mr. J. P. Boyle, President of Shipping Limited with reference to through bill of lading privilege granted Irish Shipping Limited.

The through bill of lading privilege has in the past only been granted to steamship lines who are members of the conference governing the various trades concerned with whom the railways are in agreement. Where no conference exists, the privilege is granted only to established lines operating regular services.

As we understand the Irish Shipping Limited are not a member of the regular conference in the trade between Canada and the United Kingdom. The railways' action in deciding to discontinue issuing through bills of lading in connection with this particular line is in accordance with the principle outlined above and we further understand is in conformity with the requirements of the members of the Canadian United Kingdom Eastbound Freight Conference.

Yours very truly,

(sgd) J. A. BRASS,
General Secretary.

I should now read the reply of the Railway Association on that occasion. This is a letter addressed to E. R. Hopkins, Esq., Secretary, Board of Transport Commissioners, Union Station Building, Ottawa. It is headed: file No. 3678.34. Irish Shipping Limited vs. C.P.R., C.N.R., and Railway Association:

Our member lines have read and considered the recent application of Irish Shipping Ltd., dated March 31, 1954. This application is similar in purport to a previous one dated January 5, 1954, and we must answer it in the same terms.

I pointed out in my letter to you of February 16 that this matter does not appear to fall within the jurisdiction of the board. Traffic moving from inland points to seaboard for export is always forwarded under a rail bill of lading covering the rail haul. This rail bill is sometimes turned in to the carrier and a through bill covering the transportation of the goods to final destination overseas is issued while the goods are in transit. In through movements of this kind the carriage by water is usually far greater than that by land. If the board were to issue an order such as that requested by the applicants it would be assuming jurisdiction to regulate transportation by sea, which of course it has no jurisdiction to do. We respectfully submit, therefore, that the application should be dismissed.

The applicant appears to have attempted in its recent submission to overcome the jurisdictional question by alleging discriminatory action by the railways in respect of demurrage.

I did not read the part of the complaint relating to demurrage because after the application was made the railways brought in new regulations regarding demurrage and that part of the application was dropped.

This allegation is not well founded, the railways charge precisely the same demurrage regardless of whether the traffic is covered by

through bills of lading or local steamship bills of lading. Certain steamship lines undertake to guarantee payment of all demurrage which may be assessed on through bill of lading traffic by reason of failure on their part to clear or permit unloading of such traffic within the free time period. It is open to the Irish Shipping Limited, or any other company, to give such a guarantee directly to the shipper.

With respect to the statement in the application submitted by the Irish Shipping Limited dated March 31 that the railways refuse the issuance of through export bills of lading to certain exporters, I would like to point out that all exporters can secure through railway export bills of lading in connection with steamship services that are granted through export bill of lading privileges by the railways and, therefore, it is my contention that there is no discrimination against any shipper or exporter in this respect.

We are transmitting a copy of this communication to Messrs. Hill, Hill & Hall, Barristers & Solicitors, 14 Metcalfe Street, Ottawa, Ontario.

Yours truly,

(sgd) J. A. BRASS,
General Secretary.

Mr. CAVERS: Mr. Chairman, I note that this evidence which is being put on the record here seems to relate to one particular case which has already been heard by the Board of Transport Commissioners on which they have apparently rendered a decision. I am wondering whether we can get to the point as to what that has to do with the agreed charges under the provisions of this bill.

The WITNESS: I am giving particulars of this case to show why we are afraid that agreed charges will be used by the railway companies to discriminate against us. This case shows that they did discriminate against us with regard to through bill of lading privileges. I will also show that they are still discriminating against us with regard to through rates and that is the foundation for our fear.

Mr. CAVERS: So far as your case goes you have already had your remedy and that was the right to go before the board and they have rendered a decision.

The WITNESS: A decision in our favour. But I think it is very germane to our case to show why we are afraid they will use the agreed charge to discriminate against us. If they are not doing it now—we think they will do it in the future.

Mr. CAVERS: That was my purpose in bringing this up—to show what connection this matter would have with the bill now before us.

The WITNESS: That is my purpose, sir.

Mr. CARRICK: May I ask if it is necessary to go into such great detail on this, having said what the discrimination against your client was?

The WITNESS: I may say that the Saguenay Terminals Limited intervened in support of the complaint. There was a hearing and the board gave judgment. This is the last part of the judgment of the board:

> To sum up, I find that when the railways issue through bills of lading in connection with certain steamship lines and deny similar arrangements in connection with certain other steamship lines who are willing and able to participate in the issuance of such bills of lading, a

condition of undue preference and advantage exists in favour of the first mentioned steamship lines; and a condition of undue prejudice and disadvantage exists in respect of the second mentioned steamship line.

An Order will issue pursuant to this Judgment requiring that such undue preference, advantage, prejudice and disadvantage be removed forthwith.

Now what the railways did in pursuance of this order was to submit an agreement to these two companies, that is, an agreement to cover the issue of the through bills and in this agreement a clause appeared which had never appeared in such an agreement before and this was the clause:

6. The steamships agree to charge for their services under the said contract of carriage the rate or rates in effect at time of shipment for the particular commodity established by all other carriers in the same trade area which have executed this standard agreement.

That is to say the railways asked us to join with the conference members in fixing rates. We objected to that clause on the ground that it would make us liable to penalties under the Combines Investigation Act. The Combines Investigation Act says in section 32, subsection 1:

Every person who is a party or privy to or knowingly assists in the formation or operation of a combine is guilty of an indictable offence and liable on conviction to a fine in the discretion of the court or to imprisonment for a term not exceeding two years or to both.

And a combine is defined in this way:

(*a*) "combine" means a combination having relation to any commodity which may be the subject of trade or commerce, of two or more persons by way of actual or tacit contract, agreement or arrangement having or designed to have the effect of

(i) limiting facilities for transporting, producing, manufacturing, supplying, storing or dealing, or

(ii) preventing, limiting or lessening manufacture or production, or

(iii) fixing a common price or a resale price, or a common rental, or a common cost of storage or transportation, or

(iv) enhancing the price, rental or cost of article, rental, storage of transportation, or

(v) preventing or lessening competition in, or substantially controlling within any particular area or district or generally, production, manufacture, purchase, barter, sale, storage, transportation, insurance or supply, or

(vi) otherwise restraining or injuring trade or commerce, or a merger, trust or monopoly, which combination, merger, trust or monopoly—

The CHAIRMAN: Order. I do not believe that the Combines Investigation Act has anything to do with this bill whatever.

The WITNESS: I was explaining that the reason that we objected to signing this agreement was that we considered ourselves liable under the Combines Investigation Act if we did so.

Mon. Mr. MARLER: Why do you not let it go at that, Mr. Coyne, and let us get on with the subject.

The CHAIRMAN: I think we had better adjourn now until tomorrow morning at 11.30.

APPENDICES

APPENDIX A

LETTER OF MARCH 31st TO HON. GEORGE C. MARLER, MINISTER OF TRANSPORT, FROM WILLIAM C. NORRIS, PRESIDENT, CANADIAN TRUCKING ASSOCIATIONS, INC.

CANADIAN TRUCKING ASSOCIATIONS
270 MacLaren Street
Ottawa 4, Canada

March 31st, 1955.

Hon. George C. Marler,
Minister of Transport,
House of Commons,
Ottawa, Ontario.

Dear Mr. Marler,

Since you tabled the Report of the Royal Commission on Agreed Charges in the House of Commons on March 23rd, Canadian Trucking Associations has had an opportunity to make a complete study of the Report.

The decision you and your colleagues in the Cabinet are called upon to make—whether to implement the recommendations—will be the most fateful decision ever taken in the history of highway transportation in Canada. The recommendations of the Commission strike at the very heart of the trucking industry.

Whether to temper the blow which the recommended federal legislation would deal the trucking industry is a decision which must be based on what is in the best interests of the nation, not what is in the special interests of Canadian truck operators. We trust that you will conclude that the nation must also come before the railways.

The railways are important to Canada and we are the first to admit it. Their welfare is a consideration which must be a paramount concern of the federal Government. But it is not the only consideration. Canadian highway transport services are an indispensable component of our transportation system. They are essential to agriculture, business, industry, and to national defence. These essential highway transport services are now threatened by the unprecedented crisis of the Royal Commission recommendations. With all the force at my command, I respectfully sound the warning to you, and to your Cabinet colleagues, that the trucking industry, as we know it today, is endangered as never before by the recommendations of this Commission.

> I am impressed with the belief that the motor (truck) industry has become a factor of permanent value in Canada's economic life and that no legislation concerning railways, and more specifically, the legislation of the kind now contemplated, can cause it vital damage.

So states the Commission. Content in the belief that what is recommended will not cause vital damage to the trucking industry, the Report recommends setting the railroads free in respect to agreed charges. Certain precautions remain. None apply to the trucking industry.

What are our own conclusions as to the extent of the damage which the proposed legislation would cause? Our study convinces us that to set the railways free in the manner recommended by the Commission will wipe out, in a relatively short time, one-third to one-half of the trucking industry. As the actual people operating the industry we can speak with some authority as to the effects of the recommendations.

We have no difficulty in justifying our conclusions as to what the recommendations will do to the trucking industry if adopted. The Commission pays great attention to the testimony of Mr. S. W. Fairweather, Vice President of Research and Development, Canadian National Railways. A significant omission in the Report concerns the key statement made to the Commission by Mr. Fairweather—that, given the freedom sought in agreed charge rate-making, the railways will make "thousands" of agreed charges.

The Report reviews the trucking industry's representations regarding the seriousness of the agreed charge threat—representations opposing agreed charges when the original legislation was introduced in 1938; when the railways demanded greater freedom of agreed charge rate-making in 1949; and again when the present Commission held its hearings. The Commission goes out of its way to write off all these representations as groundless fears.

"In 1938", the Report states, "this for-hire trucking industry was represented by about 16,000 trucks as compared with the 65,000 in 1953."

In other words, this growth occurred despite the forebodings of the trucking industry.

But the Report points out:

> The present record shows, that by the end of 1954, 35 additional agreed charges had been made *raising the total since 1938 to 80.*

So the industry that is shown as having made such advances since 1938—despite its warnings about agreed charges—did so in the face of 80 agreed charges put into effect during a period of sixteen years.

The Commission makes no mention of the fact that the amendments it recommends to the Transport Act will bring on not the 80 agreed charges of the past sixteen years but "thousands" of agreed charges—as fast as the railways can make them.

Strange indeed that the Commission sidesteps this announced result of its own proposed legislation.

Today, it is true, the trucking industry is a vigorous, efficient industry. This is in the public interest. It cannot remain so under the promised onslaught of "thousands" of agreed charges. The Report fails to take account of the fact.

Although the trucking industry's traditional position has been that agreed charges should not be permitted in any form—that the railways have, and should continue to have, the right to their present unfettered competitive rate-making—we concede that the Canadian railroads have wrested a great victory from the hearings of this federal Royal Commission. Although Canadian Trucking Associations spent more money on the Royal Commission hearings than the Government of Canada—according to the Parliamentary return of March 25th—our resources did not permit us to match the colossal expenditures on research, counsel, and expert staff put forward by the Canadian railroads.

The Report is now in the hands of the Government whose overwhelming majority in Parliament gives the proposed legislation a fair chance of passage should the Government decide to introduce it. The Government now has its last opportunity to pause and decide if it will not temper the decisive blow which the proposed legislation will strike at the future development of the trucking industry.

A precaution recommended by the Royal Commission is that review of an agreed charge by the Transport Board may be obtained by "any carrier, or association of carriers" on reference from the Minister of Transport. The Commission designates this carrier or association of carriers as being either by water or rail. True to the legislation presently in effect, it pointedly excludes 'for hire' truck operators. We submit that to be fair and equitable to *all* carriers, the legislation cannot single out truck operators as the only carriers to be denied the right of review of an agreed charge.

We respectfully request that the right to obtain review of an agreed charge by the Transport Board, on reference from the Minister of Transport, be extended to truck operators or their associations; and that the waiting period of three months be eliminated.

Section 33 (1) of the Transport Act would thus read:

> In the case of any agreed charge
>
> (*a*) any carrier, or association of carriers, by water, rail, or road, or
>
> (*b*) any association or other body representative of the shippers of any locality,
>
> may complain to the Minister that the said agreed charge is unjustly discriminatory in respect to the party or parties complaining or places their business at an unfair disadvantage, and the Minister may, if satisfied that in the public interest the complaint should be investigated, refer such complaint to the Board for investigation and if the Board after hearing finds that the effect of such agreed charge upon the business of the complainant or complainants is undesirable in the public interest the Board may make an order varying or cancelling the agreed charge complained of or may make such other order as in the circumstances it deems proper.

As previously pointed out to you by the Association, in the five provinces which have motor carrier regulation by provincial transport boards—Quebec, Ontario, British Columbia, Manitoba, and Saskatchewan—approximately 87 per cent of Canadian motor carrier revenue is earned. In each of these provinces, the railways are permitted to appear as objectors at all hearings of applications for new, or extended, operating authority by motor freight or passenger carriers. The policy of the governments of these five provinces is that the railways shall have the privilege of participating in provincial transport board hearings. The Quebec Transportation Board has issued a decree specifically recording that continuation of this privilege for the railways is the policy of the Board.

As we have pointed out to you, that privilege has been accorded the railways by the provinces concerned for many years. We again submit that extension of a similar privilege to the trucking industry by the Government of Canada would be a reciprocation of the broad view of rail-truck competitive relationships by the five provinces where 87 per cent of motor carrier revenue is earned.

We urge your most serious consideration of this submission.

Yours very truly,

(Sgd.) William C. Norris,
President.

APPENDIX B

PROVINCIAL AGENCIES REGULATING THE CANADIAN TRUCKING INDUSTRY AND SUMMARY OF MAIN REGULATORY FEATURES

Provincial Authorities Regulating Trucking Industry

Prince Edward Island: Public Utilities Commission, Charlottetown, P.E.I.
Nova Scotia: Board of Commissioners of Public Utilities, Halifax, N.S.
New Brunswick: Motor Carrier Board, Saint John, N.B.
Newfoundland: Board of Commissioners of Public Utilities, St. John's Nfld.
Quebec: Transportation Board, Quebec, P.Q.
Ontario: Department of Highways, Toronto, Ont.
Manitoba: Motor Carrier Board, Winnipeg, Man.
Saskatchewan: Highway Traffic Board, Regina, Sask.
Alberta: Highway Traffic Board, Edmonton, Alta.
British Columbia: Public Utilities Commission, Victoria, B.C.

Prince Edward Island

1. Name of Regulatory Board—Public Utilities Commission.
2. Duties—No control over trucks.
3. Other duties not connected with highway transport?—Yes.
4. Public convenience and necessity?—Not required.
5. Does license entitle carrier to operate anywhere in the province?—Not applicable to trucks.
6. Can service be extended?—No restriction.
7. Can license be transferred?—Approval of Commission required.
8. Frequency of license renewal?—Annual.
9. Rate control?—No.
10. Classification of trucks—"Motor Trucks".

Nova Scotia

1. Name of regulatory board—Board of Commissioners of Public Utilities.
2. Duties—No control over trucks.
3. Other duties not connected with highway transport?—Yes.
4. Public convenience and necessity?—Not required.
5. Does license entitle carrier to operate anywhere in the province?—Not applicable to trucks.
6. Can service be extended?—No restriction.
7. Can license be transferred?—Approval of Board required.
8. Frequency of license renewal?—Annual.
9. Rate control?—No.
10. Classification of trucks—"Commercial Motor Vehicle".

New Brunswick

1. Name of regulatory board—Board of Commissioners of Public Utilities acting as the Motor Carrier Board.
2. Duties—Has authority for control of trucks but does not exercise it.
3. Other duties not connected with highway transport?—Yes.
4. Public convenience and necessity?—Required to show that public convenience will be promoted. Not observed in practice.
5. Does license entitle carrier to operate anywhere in the province?—No,—but restrictions not observed in practice.

6. Can service be extended?—No restriction.
7. Can license be transferred?—Approval of Board required.
8. Frequency of license renewal?—Annual.
9. Rate control?—No.
10. Classification of trucks—"Public Motor Truck".

Newfoundland

1. Name of regulatory board—Board of Commissioners of Public Utilities.
2. Duties—No control over trucks.
3. Other duties not concerned with highway transport?—Yes.
4. Public convenience and necessity?—Not required.
5. Does license entitle carrier to operate anywhere in the province?—Not applicable to trucks.
6. Can service be extended?—No restriction.
7. Can license be transferred?—Approval of Board required.
8. Frequency of license renewal?—Annual.
9. Rate control?—No.
10. Classification of trucks—"Commercial Motor Vehicle".

Quebec

1. Name of regulatory board—Transportation Board.
2. Duties—Controls trucks.
3. Other duties not connected with highway transport?—No.
4. Public convenience and necessity?—Protection of the rights and interests of the public deemed necessary by the Board.
5. Does license entitle carrier to operate anywhere in the province?—Very rarely; restricted to type of merchandise or to shipper(s).
6. Can service be extended?—Highway operator may expand his fleet at his discretion but must obtain approval from the Board of route extension.
7. Can license be transferred?—Approval of Board required.
8. Frequency of license renewal?—Annual.
9. Rate control?—Yes. Rates filed, cannot be changed without Board's approval. For cities, rates are fixed by order of the Board.
10. Classification of trucks—
   (*a*) "Delivery Car"—transportation of merchandise for pecuniary consideration.
   (*b*) "Commercial Vehicle"—transportation of merchandise and persons *without* pecuniary consideration.
   (*c*) "Farm Vehicle"—exclusive transportation of merchandise and persons of such farm. (Capacity must not exceed 7 tons.)

Ontario

1. Name of board—Ontario Municipal Board.
2. Duties—Considers applications for public carrier license.
3. Other duties not connected with highway transport?—Yes.
4. Public convenience and necessity?—Board establishes public necessity and desirability of the time of application. It may consider the effect, if any, which the carrier may have upon the physical structure of the highways to be used.
5. Does license entitle carrier to operate anywhere in the province?—In some cases.

6. Can service be extended?—Highway operator may extend his fleet at his discretion but must obtain approval from Board for route extension.

7. Can license be transferred?—Yes, upon payment of transfer fee. Minister of Highways may refer any application for transfer to the Board.

8. Frequency of license renewal?—Annual.

9. Rate control?—No.

10. Classification of trucks—

(*a*) Class A—authorizing the licensee to conduct a scheduled public commercial vehicle service between places on the King's Highway and other places named in the license;

(*b*) Class B—authorizing the licensee to conduct a scheduled public commercial vehicle service from or to a home terminal not on the King's Highway, or between places not on the King's Highway;

(*c*) Class C—authorizing the licensee to transport only one person's goods at a time and only on a continuous trip from or to the place or places named in the license;

(*d*) Class D—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of goods to or from the person named in the license, or operated exclusively for the transportation of a particular type of goods designated in the license;

(*e*) Class E—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of milk and cream;

(*f*) Class F—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of live stock, road-construction materials, bricks, tile, cement blocks, cement, coal or rough lumber or such of them as are named in the license;

(*g*) Class G—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of live stock, feed, seed, fertilizer and farm supplies or such of them as may be named in the license to or from farms within the area defined in the license;

(*h*) Class H—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of uncrated used household, office and store furniture;

(i) Class K—authorizing the licensee to conduct a public commercial vehicle service exclusively for the transportation of heavy-duty machinery, boilers, transformers and similar equipment which require special loading devices and cannot be carried on a standard truck, trailer or semi-trailer;

(*j*) Class L—Restricted to carriage of goods in bond through Ontario between the states of Michigan and New York.
(route perscribed in the license.)

Note: Insofar as public carrier services are concerned the function of the Ontario Municipal Board is to consider applications for licenses. Licenses are issued to and carriers regulated by Department of Highways.

MANITOBA

1. Name of Regulatory Board—Municipal and Public Utility Board (Motor Carrier Board).

2. Duties—Control all motor carriers operating for hire and private trucks in inter-urban operation.

3. Other Duties Not Connected With Highway Transportation?—Public Utility Board—Yes, Motor Carrier Board—No.

4. Public Convenience and Necessity?—If public convenience will be promoted, the Board may grant a certificate allowing the operation of public service vehicles as shown in the certificate.

5. Does License Entitle Carrier to Operate Anywhere in the Province?—In some cases; when especially granted by "Various Points" franchise.

6. San Service be Extented?—Highway operator must obtain approval for each additional vehicle as well as for each route extension.

7. Can License be Transferred?—No.

8. Frequency of License Renewal?—Annual.

9. Rate Control?—Yes. Fixed by the Board.

10. Classification of trucks—"Public Service Vehicle" and "Commercial Truck". License Plates:

(*a*) P.S.V. with Certificate bearing—general freight or contract, service on specified routes or otherwise.

(*b*) "C.T."—for transportation of owner's goods outside 15 mile radius from registered place of business.

SASKATCHEWAN

1. Name of Regulatory Board—Highway Traffic Board.

2. Duties—Controls all motor carriers operating for hire.

3. Other Duties not Connected with Highway Transport?—Yes.

4. Public Convenience and Necessity?—A certificate of registration allowing the operation of a public service vehicle will be granted by the Board if it finds after a hearing that public business will be promoted.

5. Does License Entitle Carrier to Operate Anywhere in the Province?—In some cases—dependent on type of operation and terms of approval.

6. Can Service be Extended?—Highway operator may expand his fleet at his discretion but must obtain approval from the Board to route extension.

7. Can License be Transferred?—Yes—from one truck to another. Not from one owner to another.

8. Frequency of License Renewal?—Annual.

9. Rate Control?—Yes. Fixed by the Board.

10. Classification of Trucks—

(*a*) "Farm Truck."

(*b*) P.S.V. with certificate bearing "A"—operated on the route or for for the charter operations specified, for transportation of general merchandise.

(*c*) P.S.V. with certificate bearing "E"—carriers operating anywhere within the province for specified commodities including petroleum products, machinery, household goods, binder twine, flour, milk and cream, dressed poultry etc.

(*d*) "Commercial Vehicle"—(private use) with certificate bearing "C" or "D" depending on radius of operation.

ALBERTA

1. Name of Regulatory Board—Highway Traffic Board.

2. Duties—Has control over truck rates and routes but does not exercise it.

3. Other Duties not Connected with Highway Transport?—No.

4. Public Convenience and Necessity?—No showing of public convenience and necessity required.

5. Does License Entitle Carrier to Operate Anywhere in the Province?—Yes.

6. Can Service Be Extended?—No restriction.

7. Can License Be Transferred?—Yes, with approval of Board.

8. Frequency of License Renewal?—Annual.

9. Rate control?—No.

10. Classification of trucks—All vehicles classified as public service or commercial vehicles with license plates:

(*a*) C—Public service and commercial vehicles operated within city limits or 5 miles therefrom

(*b*) CV—All commercial vehicles not included in (*a*) above

(*c*) DU—"Drive Yourself" vehicles

(*d*) E—Public service vehicle for transportation of grain and/or sugar beets for compensation

(*e*) F—Commercial farm vehicles

(*f*) PSV—All public service vehicles not included above

(*g*) U—Public service and commercial vehicles transporting freight as "C"

British Columbia

1. Name of regulatory board—Public Utilities Commission.

2. Duties—Controls all motor carriers operating for hire and also private trucks.

3. Other duties not connected with highway transport?—Yes.

4. Public convenience and necessity?—The Commission may require proof of public convenience and necessity before issuing license.

5. Does license entitle carrier to operate anywhere in the province?—No.

6. Can service be extended?—Highway operator must obtain approval for each additional vehicle as well as for each route extension.

7. Can license be transferred?—Yes, with the approval of the Commission.

8. Frequency of license renewal?—Annual.

9. Rate control?—Yes. Rates filed, cannot be changed without Board's approval.

10. Classification of trucks—

(A) (*a*) Class I—Operating on regular schedule and route, or on a regular time schedule between fixed termini and at other times as a public freight vehicle otherwise than in the foregoing manner.

(*b*) Class II—Operating *only* on a regular schedule and route or on a regular time schedule between fixed termini.

(*c*) Class III—*Not* operating regularly nor between fixed termini.

(B) Limited:—Used solely under a limited number of special or individual contracts.

(C) Private:

(*a*) Class I—All other than Class III

Class III—Restricted to trucks owned and operated by a farmer.

APPENDIX "C"

PROPOSED MOTOR CARRIER ACT (REVISED), PROVINCE OF NEW BRUNSWICK, 1955

BILL

MOTOR CARRIER ACT

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1. In this Act, unless the context otherwise requires, **Definitions**

(*a*) "Board" means the Motor Carrier Board as hereinafter constituted:

(*b*) "freight" includes personal property of every description that may be conveyed upon a motor vehicle or trailer, except a passenger's personal baggage;

(*c*) "license" means a license granted to a motor carrier under this Act;

(*d*) "licensed motor carrier" means a motor carrier to whom a license has been granted under this Act by the Board;

(*e*) "Minister" means the Provincial Secretary-Treasurer;

(*f*) "motor carrier" means a person that operates or causes to be operated in the Province a public motor bus or a public motor truck;

(*g*) "motor vehicle" includes any attached trailer;

(*h*) "operate" as used with reference to a public motor bus or public motor truck means to carry on the business of operating such public motor bus or public motor truck, and includes the driving thereof;

(*i*) "order" means an order made under this Act by the Board;

(*j*) "Operator" means a person who carries on the business of operating, driving, or causing to be operated a public motor bus or a public motor truck;

(*k*) "public motor bus" means a motor vehicle that is available for use by the public and is operated at any time or from time to time on a highway over a regular route or between fixed termini and on a regular time schedule by, for, or on behalf of any person who charges or collects compensation for the transportation of passengers in or upon the motor vehicle;

(*l*) "public motor truck" means a motor vehicle carrying or used to carry freight for hire or reward;

(*m*) "regulations" means the regulations made under this act by the Lieutenant-Governor in Council; and

(*n*) "service" includes the use and accommodation afforded by and the equipment, property and facilities employed by any motor carrier in connection with the operation of a motor vehicle as a public motor bus or a public motor truck.

PART I—ADMINISTRATION

Motor Carrier Board

2. (1) The members of the Board of Commissioners of Public Utilities are hereby constituted a Board for the purposes of this Act, to be known as The Motor Carrier Board, and the chairman and secretary of the said Board of Commissioners of Public Utilities shall be, respectively, the chairman and secretary of The Motor Carrier Board.

Additional members

(2) The Lieutenant-Governor in Council in addition to the members provided for in subsection (1) may appoint the Registrar of Motor Vehicles and the Secretary of the Board as members of the Board.

Secretary to sit in absence of member

(3) During such time as the Board consists of three members, when a member of the Board is absent from a regularly constituted meeting thereof, the secretary shall sit and perform the duties of a member of the Board.

Quorum

(4) Two members of the Board shall form a quorum except when, under subsection (2) two additional members are appointed to the Board in which case three members of the Board shall form a quorum.

Jurisdiction of Board

(5) Without limiting any powers, duties, authority or jurisdiction conferred or imposed by this Act, all powers, duties, authority and jurisdiction as are vested in the Board of Commissioners of Public Utilities over common carriers are hereby vested in the Board over motor carriers, except as otherwise specifically provided in this Act.

Powers of chairman or secretary between meetings

(6) Between meetings of the Board the chairman of the Board or the secretary of the Board or either of them may do all or any of the things which may be done under this Act by the Board but any order or decision of the chairman or secretary pursuant to the authority hereby conferred shall be effective only until the next ensuing meeting of the Board.

PART II—PUBLIC MOTOR BUSES

Board may grant license for Public Motor Buses

3. The Board may grant to any person a license to operate or cause to be operated public motor buses over specified routes or between specified points.

Applications for licenses

4. (1) Written application for a license shall be made to the Board setting forth such information and facts, and generally in such form, as the Board may prescribe.

Board to fix time and place for hearing

(2) Upon the filing of the application, the Board shall fix a time and place for the hearing thereof, not less than ten nor more than thirty days after such filing, and shall cause notice of such hearing to be published in one or more issues of The Royal Gazette.

(3) Any person who has an interest in the matter may appear and be heard.

What Board to consider

(4) In determining whether or not a license shall be granted, the Board shall give consideration to the transportation service being furnished by any railroad, or licensed motor carrier, the likelihood of

the proposed service being permanent and continuous throughout the period of the year that the highways are open to travel and the effect that the proposed service may have upon other transportation services.

Order for license may be granted on proper security

(5) If the Board finds from the evidence submitted that public convenience and necessity will be promoted by the establishment of the proposed service, or any part thereof, and is satisfied that the applicant will provide a proper service, an order may be made by the Board that a license be granted to the applicant in accordance with its findings, upon proper security being furnished.

Adequate insurance required

(6) No license shall be issued to an applicant under this part unless there is filed with the Board

(*a*) a liability insurance policy or bond, satisfactory to the Board, of some insurance company or association authorized to transact business in the Province in such sum as the Board may deem necessary to adequately protect passengers, and the public, due regard being had to the number of persons and amount of property involved, which insurance or bond shall bind the obligors to make compensation for injuries to persons and loss of, or damage to, property resulting from the negligent operation of the public motor buses of such applicant;

Bond for taxes

(*b*) a bond, satisfactory to the Board and in such amount as the Board may determine, conditioned for the payment by such applicant of all assessments, fees and charges under, and for the faithful performance by such motor carrier of all duties imposed by this Act and the regulations.

Licenses issued to be operative until cancelled or revoked

(7) Upon the filing of the insurance policies and bonds required by subsection (6) the Board may issue a license to the applicant which shall be operative and in force until cancelled or revoked under this Act.

Actions on bond

(8) Any bond filed under the provisions of clause (*a*) of subsection (6) shall be in the name of the Provincial Secretary-Treasurer, and if any judgment against the principal named in any such bond in respect of any injury or loss covered by such bond remains unsatisfied for fifteen days after it has been rendered, the judgment creditor may for his own use and benefit, and at his sole expense, bring an action on said bond in the name of the Provincial Secretary-Treasurer against any surety who executed the bond.

Cancellation of license not used

5. (1) Unless exercised within a period of thirty days from its issue, or within such further period as the Board may allow, a license to operate a public motor bus shall be deemed to be cancelled, and any rights and privileges conferred thereby shall cease and determine.

(2) The Board may for good cause suspend any license issued under this Part; and, after giving no less than ten days' notice to the holder and allowing him an opportunity to be heard, may revoke, alter or amend any license.

Cancellation of license for improper service

(3) Where the Board finds that a licensed public motor bus operator is not furnishing satisfactory service over any route covered by its license, such operator shall be given a reasonable time, not less than twenty days, to furnish such service before its license is cancelled or revoked, or a license granted to some other applicant for such route.

(4) Where the Board considers that a certain route should be extended, it may notify the licensee of that route to apply within sixty days for a new license covering the present route and the proposed extension failing which application the Board is empowered to consider other applications and to grant a license covering the present route and the extension, and also to cancel the license now in force in respect to the present route.

No abandonment of service without Board order

6. Except as provided in section 7 no lisensed public motor bus operator shall abandon or discontinue any service comprised within its license without an order of the Board which shall be granted only after a hearing upon such notice as the Board may direct.

Chief Highway Engineer may order discontinuance of service for a time

7. When conditions are such that, in the opinion of the Chief Highway Engineer of the Province, a highway is being or would be damaged by the operation of a public motor bus, the Chief Highway Engineer may order an immediate discontinuance of operation on such highway until further order.

Transfer of licenses

8. Where a licensed motor bus operator sells, transfers or assigns its business it may, with the approval of the Board, transfer its license and all rights thereunder to the purchaser, and the Board shall thereupon issue a license to the purchaser conferring the same rights and privileges as the license transferred.

Prohibition

License necessary for operation of public motor bus

9. Except as provided by this Act, no person shall operate a public motor bus within the Province without holding a subsisting license from the Board authorizing such operations and then only as specified in such license and subject to this Act and the regulations.

Part III—Public Motor Trucks

Board may license public motor trucks

10. The Board may grant to any person a license to operate or cause to be operated public motor trucks in the Province.

Applications

Application for license

11. (1) Written application for a license or for a variation in a license shall be made to the Board setting out such information and facts, and generally in such form as the Board may prescribe.

Time of hearings

(2) Upon the filing of the application, the Board shall fix a time and place for the hearing thereof, not less than fourteen nor more than thirty days after such filing, and shall cause notice of such hearing to be published in one or more issues of The Royal Gazette.

(3) A true copy of the application shall be served by the applicant on all existing public motor truck operators which are, or may be to the applicant's knowledge, affected by such application. Service of application on existing motor truck operators

(4) Notice of the application shall also be published in The Royal Gazette at least two weeks prior to the date of the hearing. Notice of application to be published in Royal Gazette

(5) Parties intending to appear at the hearing of such application may do so after filing notice of such intention with the Board at least five days prior to the date of the hearing stating the nature and extent of their interest and such notice shall be made available by the Board to any interested party for inspection. Notice of intention to appear to be filed

(6) Parties entitled to appear under subsection (5) shall be limited to those operating other public motor trucks and to shippers or receivers of goods. Parties who may be heard

12. In determining whether a license is to be issued the Board shall, among other things, consider the following factors: Grounds for issuing licenses

(*a*) whether existing public motor truck service is adequate to meet present and future demands; Existing service

(*b*) the effect upon existing public motor truck service, and particularly, whether the granting of such license will or may seriously impair such existing service; and Effect of license

(*c*) the financial ability, fitness and willingness of the applicant to furnish adequate service provided that no such license shall be issued solely upon the ground of previous unauthorized public motor truck service. Ability of applicant to furnish adequate service

13. (1) It shall be the duty of the Board to hear and determine at public hearings: Duties of Board

(*a*) applications for new licenses to operate public motor trucks;

(*b*) applications for extensions, alterations or modifications of, and amendments to, existing licenses to operate public public motor trucks; and

(*c*) suspension or cancellation of licenses to operate public motor trucks.

(2) Hearings may be held by the Board or by any member of the Board or the Secretary thereof upon any matter referred to him by the Board. Who may hold hearings

(3) The Board may adopt in whole or in part or many vary, alter or reconsider or may require a further hearing of any report or recommended order made to it by a member thereof. Effect or report of member

(4) The Board may, in its discretion publish written reasons for its decisions on any contested application. Board may publish reasons

14. The decision of the Board in respect of any application made under this Part shall be final and conclusive. Decision of Board to be Final

What license may include

15. (1) In issuing any license, or approving the transfer of a license, the Board may prescribe the routes which may be followed or the areas to be served and may attach to the license such conditions as the Board may consider necessary or desirable in the public interest, and, without limiting the generality of the foregoing, the Board may impose conditions respecting schedules, places of call, carriage of freight, and insurance.

Board may issue license different from that applied for

(2) The Board may issue a license which differs from the license applied for and may suspend, cancel or amend any license or any part thereof where, in the opinion of the Board, public convenience and necessity so requires.

Cancellation or suspension of licenses

(3) Where, in the opinion of the Board, a public motor truck operator has violated any of the conditons attached to his license, the Board may, subject to clause (c) of subsection (1) of section 13, cancel or suspend the license.

PROHIBITION

Operation of public motor truck without lisense prohibited

16. Except as provided in this Act no person shall operate a public motor truck in the Province unless he holds a valid and subsisting license or temporary authority or approval under this Part.

PART IV—GENERAL

Emergency authority

17. (1) To enable the provision of service for which there is an immediate and urgent need to a point or point or within a territory having no apparent motor carrier service, the Board may, after giving notice to such public motor truck or public motor bus operators as in the Boards opinion, are or may be affected, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a motor carrier.

(2) Such temporary authority or approval shall be valid for such time as the Board may specify not exceeding 180 days, and shall create no presumption that corresponding permanent authority or approval will be granted thereafter.

Exceptions to provisions of Act.

18. (1) This Act does not apply to any motor vehicle

(*a*) while engaged only in the transportation of school children, when the same is paid for by a Board of School Trustees or the Province or by both; or

(*b*) while engaged only in carrying mails; or

(*c*) while engaged only in carrying passengers to or from any train, ship, boat or aeroplane, for trips not exceeding ten miles, one way; or

(*d*) while used exclusively on the construction of any federal, provincial, international or municipal work; or

(*e*) which is used as a taxicab; or

(*f*) while being used exclusively in the transportation of (i) unprocessed products of the farm produced in the farming operations of the owner of such motor vehicle from the place of production to market or to the first point of transhipment;

(ii) unprocessed products of the sea caught, taken or produced by the fishing or other operations of the owner of such motor vehicle from the place such products are landed or produced to market or to the first point of transhipment;

(iii) unprocessed trees, logs, pitprops, poles, or similar forest products; or

(iv) mineral ore from the mine to a processing plant or to the first point of transhipment; or

(*g*) used exclusively for the transportation of freight bona fide the property of the owner of the motor vehicle; or

(*h*) used exclusively in the transportation of freight used or subjected to a process or treatment by the owner of the motor vehicle in the course of a regular trade or occupation or established business of such owner when the transportation is incidental to such trade, occupation or business; or

(*i*) used exclusively in the delivery or collection of freight sold or purchased or agreed to be sold or purchased, or let on hire by the owner of the motor vehicle otherwise than as agent in the course of a regular trade or established business of such owner; or

(*j*) used by, for or on behalf of any person who charges or collects compensation for the transportation of freight in or upon the motor vehicle, where the operation is carried on solely under a limited number of special or individual contracts or agreements and where the motor vehicle is not available for use by the general public; or

(*k*) used exclusively in the transportation of used household effects.

Establishment of exempt areas

(2) The Board may establish an area contiguous to any city, town or incorporated village, but not extending more than twenty miles from the boundary thereof, as an exempt district and upon such area being so established, the provisions of this Act shall not apply to any public motor bus or public motor truck, except one operated by a licensed motor carrier, operating therein under a special permit issued for such area by the Board.

(3) The Board may at any time rescind the order establishing an area under subsection (2).

City town, etc. may make by-laws for certain purposes

19. (1) With the approval of the Lieutenant-Governor in Council, the Council of any city, town or incorporated village and the Simonds Highway Board may make by-laws or regulations

(*a*) for the registration of public motor buses or public motor trucks operating within their respective limits;

(*b*) for the control of traffic and the use of their roads and streets by such public motor buses or public motor trucks;

(*c*) for the licensing of proprietors or owners of public motor buses or public motor trucks to operate same within the limits of such city, town, incorporated village or Highway Boards;

(*d*) prescribing the fees payable on such registration and licensing; fixing routes, fares and details of services, and requiring the giving of bonds or other security by the proprietors, or owners of such public motor buses or public motor trucks for the payment of any loss occasioned to persons or property by their operations;

(*e*) granting exclusive privileges over any agreed routes, or routes to be agreed upon, or for any agreed service or services, to any proprietor or owner of such public motor bus or public motor truck upon the payment of such additional fees or assessments for such exclusive privileges, and generally on such terms and conditions as may be agreed upon; or

(*f*) providing for the imposition of penalties not exceeding fifty dollars for the violation of any such by-law or regulation.

Procedure respecting contiguous cities, etc.

(2) In the case of two or more contiguous cities, towns, incorporated villages as well as the part of the Parish of Simonds, controlled by its Highway Board, the respective Councils or Highway Board may with the like approval of the Lieutenant-Governor in Council by common action grant such licenses and exclusive privileges over their combined areas and generally exercise together or in unison the powers and jurisdiction conferred upon them severally by subsection (1).

Not to interfere with licensed motor carrier

(3) Nothing contained in subsection (1) or (2) shall authorize or permit any Council or Highway Board to interfere with any licensed motor carrier in any operations pertaining or incidental to the exercise of a license granted to it by the Motor Carrier Board.

Subsection (2) may be declared not to apply to one or more contiguous cities, etc.

(4) Notwithstanding anything contained in this Act, the Lieutenant-Governor in Council may order that subsection (2) shall not apply to any one or more contiguous cities, town, incorporated villages and parts of parishes, whereupon the operation of public motor buses and public motor trucks operating between, through or within such contiguous cities, towns, and incorporated villages and parts of parishes shall be as fully under the supervision and control of the Board as if subsections (1) and (2) had not been passed.

Councils of towns, etc., to designate pickup points, etc.

20. It is the duty of the Council of every city, town or incorporated village, and of the Highway Board within the controlled parts of the Parish of Simonds to designate reasonable locations on the public streets for the accommodation of motor vehicles operated by a licensed motor carrier for taking on and letting down passengers and to designate suitable and convenient parking places, and any dispute relating to such a matter may be settled by the Board whose orders shall be final and binding on all parties.

Minister may appoint inspectors

21. The Minister may appoint inspectors under this Act, who shall be subject to the jurisdiction of the Board and whose duties shall be to enforce the provisions of this Act and the regulations and perform such other duties as the Minister may prescribe.

Orders of Board to be in writing

22. The orders and decisions of the Board shall be reduced to writing and, except where the Board otherwise expressly provides, shall become effective, as respects any motor carriers affected thereby, only after ten days from the mailing to such motor carrier of a copy thereof duly certified by the Chairman or secretary of the Board.

Lieutenant-Governor in Council may make regulations

23. The Lieutenant-Governor in Council on the recommendation of the Board may make regulations

Financial reports

(*a*) requiring motor carriers subjected to this Act to file with the Board information with respect to their capital, traffic, equipment, working expenditure and any other matters relating to the operations of motor carrier services;

Information respecting ownership

(*b*) requiring any person to furnish information respecting ownership, transfer, consolidation, merger or lease or any proposed transfer, consolidation, merger or lease of motor carrier services subject to this Act;

Copies of agreements

(*c*) requiring copies of agreements respecting any such consolidation, merger, lease or transfer, and copies of agreements affecting carrier services subject to this Act to be filed with the Board;

Classification of carriers

(*d*) establishing classification or groups of motor carriers; and to require registration of, and issue permission for, the operation of truck rental or leasing by any person;

Prohibiting mergers, etc.

(*e*) prohibiting the transfer, consolidation, merger or lease of motor carrier services or their common control or management except subject to such conditions as may by such regulations be prescribed, and authorizing the Board, whenever it is of the opinion that the result thereof will promote better service to the public or economy in operation and will not unduly restrain competition, and that such regulations have been complied with to approve and authorize a transfer, consolidation, merger or lease of motor carrier services or their common control or management upon such terms as the Board may order;

Exclusions from operation of Act

(*f*) excluding from the operation of the whole or any part of this Act or any regulation, order or direction made or issued pursuant thereto, any motor carrier or motor carrier service or class or group of motor carriers or motor carrier services, either temporarily, seasonally, geographically, by commodities in first movement, by size or number of vehicles or otherwise;

General information

(*g*) requiring applicants for licences to furnish information respecting their financial position, their relation to other motor carriers, the nature of the proposed routes, the proposed tariffs of tolls and such other matters as may be considered advisable;

Forms

(*h*) prescribing forms for the purpose of this Act;

Tariffs and tolls

(*i*) respecting traffic, tolls and tariffs and providing for the disallowance or suspension of any tariff or toll;

Application of tariffs and tolls

(*j*) respecting the manner and extent to which any regulations with respect to traffic, tolls or tariffs shall apply to any motor carrier licensed by the Board;

Form and duration of licenses

(*k*) prescribing the term of the license and providing for the duration thereof;

Working hours of drivers

(*l*) prescribing maximum hours and other working conditions for drivers or motor vehicle operators employed by any motor carrier subject to this Act;

Forms of records

(*m*) prescribing forms of accounts and records to be kept by motor carriers, and providing for access by the Board to such records;

Fees

(*n*) prescribing fees payable for licenses issued under this Act or the regulations and for any other matter within the jurisdiction of the Board; and

General

(*o*) generally providing for the effective carrying out of the provisions of this Act.

Penalty for violation of Act

24. (1) Every person, motor carrier, officer and agent or employee of a motor carrier who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or the regulations, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Board or the Minister, or who procures, aids or abets the failure or neglect of any person to obey, observe, or comply with any such order, decision, rule, direction, demand or regulation, is guilty of an offence and liable to a penalty of not less than twenty-five dollars nor more than one thousand dollars, with costs, or to imprisonment for a term not less than one nor more than six months, or to both fine and imprisonment.

Onus of proof of license

(2) Where by this Act or the regulations it is made an offence to do any act without holding a license under this Act, the onus in any prosecution is upon the person charged to prove that he was the holder of a license.

Disposition of fees and penalties

(3) All fees and penalties collected under this Act or the regulations shall be paid to the Provincial Secretary-Treasurer for the use of the Province.

Soliciting of motor carrier business for unlicensed carrier prohibited

25. No person shall solicit by means of advertising, or otherwise undertake to transport or to arrange for the transportation of goods or passengers by means of a motor carrier service unless the person by, for, or on behalf of whom the motor carrier service is operated is licensed under this Act.

Reports of Accidents

26. (1) A motor carrier involved in an accident shall report to the Board, with full particulars, within forty-eight hours after the happening thereof, provided the accident causes injury to any person or property, other than that of the motor carrier, to an apparent extent of fifty dollars or more.

Investigation of accidents.

(2) The Board, if it deems it advisable, may hold an investigation into any such accident.

Licensed motor carriers deemed public utilities

27. Every licensed motor carrier shall be deemed a public utility under the Public Utilities Act insofar as the provisions of the Public Utilities Act are not inconsistent with the provisions of this Act.

Provisions of Act deemed to be in addition to those of Motor Vehicle Act

28. The provisions of this Act shall be deemed to be in addition to the provisions of Chapter 20 of 24 George V, (1934), The Motor Vehicle Act.

Motor Carrier Act, 1952, repealed

29. Chapter 148 of the Revised Statutes, 1952, the Motor Carrier Act, is hereby repealed.

30. This Act shall come into force on a day to be fixed by Proclamation.

APPENDIX D

SURVEY OF SHIPPERS' REASONS FOR USING TRUCK SERVICE IN PREFERENSE TO RAIL; ASSOCIATION OF AMERICAN RAILROADS

PRIMARY REASONS WHY SHIPPERS NORMALLY USE TRUCKS

	Number of Replies									
	Eastern			Southern			Western			Total
a. Inbound	(1)	(2)	(3)	(1)	(2)	(3)	(1)	(2)	(3)	
Shorter transit time	228	115	80	25	15	9	106	40	35	653
Lower Costs	23	19	17	4	5	2	13	10	9	102
Less loss and damage	3	2	.....	1	1	.....	3	1	1	11
No dunnage required	1	1	1	.....	.....	.....	1	1	1	6
Less billing required	1	.....	.....	.....	.....	.....	1	.....	.....	2
Lower minimum	6	.....	.....	1	.....	.....	4	.....	.....	11
Speed in servicing claims	1	.....	.....	1	.....	.....	1	.....	.....	3
Less marking and packing	2	1	1	1	1	1	1	1	1	10
More personal service	1	.....	.....	1	.....	.....	1	.....	.....	3
Less handling	11	10	5	1	.....	1	3	1	1	33
b. Outbound										
Shorter transit time	252	133	90	30	18	9	107	60	40	739
Lower costs	24	23	20	3	5	2	19	12	10	118
Less handling	12	10	11	1	1	.....	3	1	.....	39
Less loss and damage	3	3	.....	.....	.....	.....	3	.....	.....	9
No dunnage required	2	2	1	1	.....	.....	1	1	1	9
Less marking and packing	3	.....	.....	.....	.....	.....	.....	.....	1	4
Lower minimum	8	.....	.....	1	.....	.....	5	1	.....	15
More personal service	4	1	1	.....	.....	.....	5	1	1	13
Speed in servicing claims	1	.....	.....	1	.....	.....	1	.....	.....	3
Less billing required	1	.....	.....	.....	.....	.....	1	.....	.....	2
PU and D service	20	12	8	1	1	2	10	5	1	60
Better tracing service	2	.....	.....	.....	.....	.....	.....	.....	.....	2

(1) Common Carriers (2) Contact Carriers (3) Private Carriers

Source: Association of American Railroads, Merchandise Traffic Study of the Traffic subcommittee—Merchandise Traffic Division of the Railroad Committee for the Study of Transportation, Part III, Statement 72, p. 16.

APPENDIX E

COMPILATION OF REVENUE TONNAGE, C.N.R. AND C.P.R., 1950-1954, INCLUSIVE, ARRANGED ACCORDING TO COMMODITY GROUPS

REVENUE TONNAGE BY COMMODITIES, C.N.R. AND C.P.R. 1950–1954

(in thousands of tons)

—	1950			1951			1952		
	C.N.R.	C.P.R.	Total	C.N.R.	C.P.R.	Total	C.N.R.	C.P.R.	Total
Agricultural Products	12,501	11,182	23,683	15,682	14,857	30,539	18,513	18,129	36,642
Animal Products	1,036	877	1,913	987	794	1,781	890	673	1,563
Mine Products	30,582	21,067	51,649	30,389	20,668	51,057	30,582	19,286	49,868
Forest Products	10,507	5,365	15,872	13,691	7,505	21,196	12,333	6,700	19,033
Manufactures and Miscellaneous	26,739	14,148	40,887	28,870	15,629	44,499	27,736	15,672	43,408
Less than carload freight (C.P.R. only)	.....	1,277	1,277	.....	1,197	1,197	.....	1,044	1,044
Total	81,365	53,916	135,281	89,618	60,650	150,268	90,054	61,505	151,559

	1953			1954			1950–1954		
	C.N.R.	C.P.R	Total	C.N.R.	C.P.R.	Total	Grand total for 5 yrs.	Annual Averages 1950–1954	
									%
Agricultural Products	18,031	17,332	35,363	13,633	13,205	26,838	153,066	30,613	21·4
Animal Products	895	685	1,580	875	668	1,543	8,380	1,676	1·2
Mine Products	29,050	19,355	48,405	28,828	19,200	48,028	249,007	49,801	34·7
Forest Products	10,287	5,468	15,755	9,977	5,336	15,313	87,169	17,434	12·2
Manufactures and Miscellaneous	28,260	15,419	43,679	26,025	14,974	40,999	213,472	42,694	29·8
Less than carload freight (C.P.R. only)	.....	997	997	.....	825	825	5,340	1,068	0·7
Total	86,523	59,257	145,780	79,338	54,206	133,544	716,434	143,287	100%

Source: C.N.R. and C.P.R. annual reports.

APPENDIX F

SUMMARY OF STATISTICAL SURVEY OF MANITOBA'S TRUCKING INDUSTRY; DOMINION BUREAU OF STATISTICS, 1954

SPECIAL COMPILATION

DOMINION BUREAU OF STATISTICS, OTTAWA

This is a statement compiled to meet a limited demand, and is not included in the Bureau's list of publications

STATISTICAL SUMMARY OF THE FIRST TWO MANITOBA SURVEYS

	All Trucks	P.S.V's
Av. Weekly Mileage	201	618
Ratio of Total Mileage empty—%	38	19
Av. weight of goods loaded per vehicle per week, Tons	38	36
Av. Goods carried per vehicle per week, Ton-Miles	659	3,268
Av. distance each ton of goods was carried in 1st survey, Miles	18	89
Av. distance each ton of goods was carried in 2nd survey, Miles	17	92
Gasoline consumption—Miles per gallon	8·3	6·1
Revenue earned per mile of operation—1st survey	—	38¢
Revenue earned per mile of operation—2nd survey	—	37¢
Revenue earned per vehicle per week—1st survey	—	$228
Revenue earned per vehicle per week—2nd survey	—	$239
Revenue earned per ton-Mile—1st survey	—	7·4¢
Revenue earned per ton-Mile—2nd survey	—	7·0¢

The foregoing refer *only* to operations within province of Manitoba.

	1st Survey	2nd Survey
Total tons of goods carried in and out of Manitoba by Survey trucks reporting movements into or out of the Province	675·4	907·5
Originating in Manitoba (Tons)	461·5	593·8
% of Total	68%	68%
Destined to—		
U.S. (Tons)	11·5	10·0
Ontario	180·7	276·9
Saskatchewan	223·0	222·7
Alberta	46·3	73·7
Quebec	—	10·5
Destined to Manitoba (Tons)	213·9	313·7
% of Total	32%	32%
Originated in—		
U.S.	7·0	—
Toronto	135·0	140·9
Saskatchewan	45·9	139·8
Alberta	26·0	7·5
Quebec	—	25·5

Ton-Miles performed outside of Manitoba by traffic moving into or out of the Province.

U.S.	150,000	304,000
Ontario	63,000	93,000
Saskatchewan	85,000	124,000
Alberta	17,000	27,000
Quebec	—	2,000
Total	315,000	550,000

NOTE: The foregoing figures reflect only the results obtained by the specific trucks which reported their operations in the first and second Manitoba Sample Surveys. No attempt was made to expand these figures into quantitative totals representing the entire truck population, or a period of time greater than the two survey weeks. The reason is that two weeks' results are an insufficient basis upon which to predict truck operations with a satisfactory degree of accuracy. However the figures may be used as an indication of the kinds of information which such surveys will eventually produce.

Prepared in the Public Finance and Transportation Division.

APPENDIX G

MOTOR CARRIERS: FREIGHT—PASSENGER; DOMINION BUREAU OF STATISTICS REPORT, 1952

FREIGHT CARRIERS, GROUP I, 1952

		Canada
Number reporting		908
Property account:		
Land and buildings	$	12,097,339
Revenue equipment—buses, trucks, etc	$	64,403,011
Service cars, shop and garage equipment	$	3,595,307
Furniture and office equipment	$	1,271,078
Organization expenses, etc	$	1,024,910
Total gross cost	$	82,373,645
Depreciation reserve accrued to December 31, 1952	$	36,573,185
Value at December 31, 1952	$	45,800,460
Revenue:		
Passenger:		
Regular routes—intercity and rural	$	188,119
Special and chartered service—intercity and rural	$	36,571
Mail, baggage, express, newspapers—intercity and rural	$	98,556
—city	$	185,330
Freight—intercity and rural	$	117,750,165
—city	$	19,782,129
Other motor carrier revenue—intercity and rural	$	2,721,079
—city	$	1,242,898
Total revenue—intercity and rural	$	120,794,490
—city	$	21,210,357
Total revenue—all services	$	142,004,847
Operating expenses:		
Maintenance costs	$	25,636,016
Wages and bonuses of drivers and helpers	$	36,209,318
Fuel, oil and other transportation expenses	$	18,542,669
Bridge, tunnel and ferry tolls	$	418,094
Insurance and safety expenses—claims, etc	$	5,876,476
Depreciation	$	11,914,421
Operating taxes and licenses	$	8,253,737
Rents—net	$	2,663,317
Other operating expenses	$	21,924,553
Total operating expenses	$	131,438,501
Income account:		
Net operating revenue	$	10,566,346
Income from other sources	$	2,337,799
Gross income	$	12,904,145
Deductions:		
Interest, bank, bond	$	509,989
Other deductions	$	724,107
Total deductions	$	1,234,096
Net income before income tax	$	11,670,049
Traffic:		
Passengers:		
Regular routes—iutercity and rural	No	204,547
Special and chartered service—intercity and rural	"	3,276
Freight carried—intercity and rural	tons	16,325,820[1]
Bus miles:		
Regular routes—intercity and rural	No.	619,142
Special and chartered service—intercity and rural	"	10,453
Gasoline consumed	gals	45,696,878
Diesel oil consumed	"	1,270,412
Number of working proprietors		757
Allowances of working proprietors	$	3,210,871

FREIGHT CARRIERS—GROUP II, 1952

—		Canada
Number reporting		853
Property account:		
Land and buildings	$	904,878
Revenue equipment, buses, trucks, etc	$	5,843,353
Other equipment, service cars, furniture, etc	$	590,596
Total cost of equipment	$	7,257,327
Revenue:		
Passenger:		
Regular routes—intercity and rural	$	17,335
Special and chartered service—intercity and rural	$	4,870
Mail, baggage, express, newspapers—intercity and rural	$	39,180
city	$	8,827
Freight—intercity and rural	$	8,517,122
—city	$	1,654,407
Other motor carrier revenue—intercity and rural	$	376,362
—city	$	71,371
Total revenue—intercity and rural	$	8,954,869
—city	$	1,734,605
Total revenue—all services	$	10,689,474
Operating expenses:		
Maintenance costs	$	1,571,103
Wages and bonuses of drivers and helpers	$	2,046,355
Fuel, oil and other transportation expenses	$	1,628,884
Bridge, tunnel and ferry tolls	$	36,255
Insurance and safety expenses—claims, etc	$	348,834
Operating taxes ahd licences	$	775,640
Rents—net	$	93,909
Operating operating expenses	$	1,881,389
Total operating expenses	$	8,382,369
Net operating revenue	$	2,307,105
Traffic:		
Passengers:		
Regular routes—intercity and rural	No.	13,857
Special and chartered services—intercity and rural	"	321
Bus miles:		
Regular routes—intercity and rural	"	166,042
Special and chartered services—intercity and rural	"	—
Freight carried—intercity and rural	tons	1,583,062[1]
Gasoline consumed	gals	4,527,605
Diesel oil consumed	"	1,000
Number of working proprietors		918
Allowances of working proprietors	$	2,422,751

FREIGHT CARRIERS—GROUP III, 1952

—		Canada
Number of carriers reporting		1,854
Property account:		
Land and buildings	$	684,789
Revenue equipment, buses, trucks, etc	$	5,649,151
Other equipment, service cars, furniture, etc	$	390,090
Total cost of equipment	$	6,724,030
Revenue:		
Mail, baggage, express, newspapers:		
Intercity and rural	$	42,085
city	$	4,046
Freight—intercity and rural	$	6,117,609
—city	$	1,198,103
Other motor carrier revenue—intercity and rural[1]	$	181,974
—city[1]	$	3,937
Total revenue—intercity and rural	$	6,341,668
—city	$	1,206,086
Total revenue—all services	$	7,547,754
Operating expenses:		
Maintenance costs	$	1,134,867
Wages and bonuses of drivers and helpers	$	662,154
Fuel, oil and other transportation expenses	$	1,261,185
Bridge, tunnel and ferry tolls	$	20,806
Insurance and safety expenses—claims, etc	$	241,161
Operating taxes and licenses	$	647,644
Rents—net	$	40,255
Other operating expenses	$	1,141,114
Total operating expenses	$	5,149,186
Net operating revenue	$	2,398,568
Traffic:		
Freight carried—intercity and rural	tons	1,171,770[2]
Gasoline consumed	gals.	3,638,133
Diesel oil consumed	"	—
Number of working proprietors		1,914
Allowances of working proprietors	$	2,606,370

APPENDIX H

NET OPERATING REVENUES OF TRUCK OPERATORS AS PERCENTAGE OF GROSS EARNINGS, 1950-1952, INCLUSIVE

Earnings, Expenses, and Net Revenue of 'For Hire' Truck Operators
1950-52

	1950	1951	1952
Gross Revenue	111,791,246	129,158,737	160,242,075
Operating expenses	100,782,335	117,140,542	144,970,056
Allowance of Working Proprietors	6,000,347	8,231,353	8,239,992
Net Operating Revenue*	5,008,564	3,786,842	7,032,027
Net Op. Revenue as % of Gross Revenue	9·8%	9·3%	9·5%
True Net Op. Revenue as % of Gross Revenue	5·4%	2·9%	4·4%

SOURCE: Dominion Bureau of Statistics: Motor Carrier Freight-Passenger.

* These figures differ from the ones given by DBS, since they are net of the allowance of working proprietors. The net operating revenue still contains interest on bonds, bank loans, etc. The interest figures are available for group I carriers only; in the case of the carriers of this group interest amounts to approximately 5% of their net revenue.

APPENDIX I

DATA ON 1951 AND 1952 'FOR HIRE' TRUCKING; DOMINION BUREAU OF STATISTICS MOTOR CARRIER REPORTS

	1951				1952			
	Group I*	Group II*	Group III*	All Groups	Group I	Group II	Group III	All Groups
1. Number Reporting	1) 810	768	2,276	3,854	1) 908	853	1,854	3,615
2. Gross Revenue	2) 110,534,745	9,735,542	8,888,450	129,158,737	2) 142,004,847	10,689,474	7,547,754	160,242,075
3. Net Operating Revenue	3) 7,509,343	1,942,371	2,566,481	12,018,195	3) 10,566,346	2,307,105	2,398,568	15,272,019
4. Allowance of working proprietors	4) 2,681,791	2,224,722	3,324,840	8,231,353	4) 3,210,871	2,422,751	2,606,370	8,239,992
5. "True Net Operating Revenue" (3 − 4)	5) 4,827,552	**	**	3,786,842	5) 7,355,475	**	**	7,032,027
6. Average Gross Revenue (2 ÷ 1)	6) 136,463	12,676	3,905	33,513	6) 156,393	12,532	4,071	44,327
7. Average Net Revenue (3 ÷ 1)	7) 9,271	2,529	1,128	3,118	7) 11,637	2,705	1,294	4,225
8. Average "True Net Op. Rev." (5 ÷ 1)	8) 5,960	—	—	983	8) 8,101	—	—	1,945
9. Number of working proprietors	9) 672	888	2,246	3,806	9) 757	918	1,914	3,524
10. Av. Allowance of the working proprietor	10) 3,991	2,505	1,480	2,163	10) 4,186	2,639	1,362	2,279
11. Net Op. Rev. as % of Gross Rev. (3 ÷ 2 × 100)	11) 6·8%	20·0%	34·6%	9·3%	11) 7·4%	21·6%	31·8%	9·5%
12. "True Net Op. Rev." as % of Gross Rev. (5 ÷ 2 × 100)	12) 4·4%	—	—	2·9%	12) 5·2%	—	—	4·4%

SOURCE: Dominion Bureau of Statistics, Public Finance and Transportation Division: Motor Carrier report.

* Group I—carriers with gross revenues of $20,000 or over, Group II—carriers between $8,000 and $19,999 gross revenue, Group III—carriers with gross revenue of $8,000 or less.

** Net Operating Revenues were smaller than the minimum estimated allowances to the working proprietors for their direct labour inputs.

APPENDIX J

NET OPERATING REVENUES OF RAILWAYS AS PERCENTAGE OF GROSS EARNINGS, 1950-1953, INCLUSIVE

RAILWAY EARNINGS, EXPENSES AND NET REVENUES

——	1950	1951	1952	1953
Railroad operating revenues*	916,717,450	1,040,586,312	1,120,313,752	1,148,598,557
Railroad operating expenses*	817,686,823	959,995,373	1,039,014,377	1,081,577,250
Railroad Net operating revenues*	99,030,627	90,590,939	81,299,375	67,021,307
Net operating revenues as % of gross earnings	10·8%	8·7%	7·3%	5·8%

SOURCE: Dominion Bureau of Statistics: Railway Transport.

* Does not include revenues and expenses from non-transportation activities. General expenses of the systems have been allocated entirely to the railways' transportation activities.